Indian and Northern
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On Reserve Services Handbook

The Canadian Aboriginal Economic Development Strategy

The Canadian Aboriginal Economic Development Strategy Handbook For On-Reserve Services

Department of Indian Affairs and Northern Development

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Preface

This handbook is designed to help Department of Indian Affairs and Northern Development (DIAND), Industry Science and Technology Canada (ISTC), and Employment and Immigration Canada (EIC) officers explain the Canadian Aboriginal Economic Development Strategy and the available programs and services to native clients. Although the handbook focusses on how the CAED Strategy is applied on Indian reserves **and in Inuit and Innu communities**, CAED Strategy programming is available to **all** Canadian aboriginal people, including **Métis and non-status Indians**.

A note on the organization of the handbook

The handbook is made up of three volumes:

Volume I is the central text of the handbook. Its three chapters explain the CAED Strategy, review the roles and responsibilities of the three lead federal departments involved in CAEDS, and provide information on the programs delivered by the three departments.

Volume II takes a closer look at the nine DIAND regions and includes information on: regional organization and staff services; regional CED approach; funding (allocation, arrangements and requirements); service (delivery, objectives and client requirements); interdepartmental/intergovernmental partnership mechanisms; Indian and Inuit partnership mechanisms; and, provincial/territorial programs and services.

Volume III of this handbook provides a number of documents as annexes geared to assist DIAND, ISTC and EIC officers carry out their duties under the CAED Strategy.

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Chapter 1 Defining the Canadian Aboriginal Economic Development Strategy (CAEDS)

The Canadian Aboriginal Economic Development Strategy represents a comprehensive response to native groups' requests for assistance with their economic and employment development needs. It provides the means to bring government and private sector investment, expertise and services together to assist aboriginal individuals and communities develop and expand businesses and to gain the skills and experience needed to become employed in satisfying jobs. The goal is to help aboriginals personally strengthen their economic self-reliance.

The CAED Strategy incorporates the recommendations of aboriginal peoples on how federal economic development programs can best support their needs. These recommendations came out of a two-year consultation with aboriginal peoples and their organizations throughout Canada.

Participants in the consultation said they needed economic development programs that would fit together without any gaps. Participants sought better access to program administrators, faster processing of applications, and a central role in decision making and program design. They also wanted programs that were flexible enough to meet the diverse circumstances and needs of aboriginal peoples across the country.

The CAED Strategy addresses these needs. It clarifies departmental responsibilities, fills service gaps and eliminates overlaps in federal programs targetted to aboriginal people. The strategy streamlines the delivery of business, resource and employment programming by the various elements of Department of Indian Affairs and Northern Development (DIAND), Industry Science and Technology Canada (ISTC) and Employment and Immigration Canada (EIC) economic and employment programs.

The strategy brings together successful elements of existing DIAND, ISTC and EIC programs. It replaces such expired programs as the Native Economic Development Program, the Special Agricultural and Rural Development Agreements with Manitoba, Saskatchewan, British Columbia, Yukon and the Northwest Territories, and the Northern Development Agreements (NDAs) with Manitoba and Saskatchewan. (The NDA with Alberta remains in effect until 1991.)

Co-ordinating the Implementation of the CAED Strategy

National and regional committees have been established to ensure that there is co-ordination and collaboration among the three lead departments. At the national level, the CAED Strategy Management Committee, composed of the ADM, Economic Development (DIAND), the ADM, Aboriginal Economic Programs (ISTC), and the Executive Director, Employment Services (EIC), is responsible for ensuring a co-ordinated interdepartmental and intergovernmental delivery of the strategy. The committee meets at least quarterly and reports annually on the implementation of the CAED Strategy to Ministers, aboriginal peoples and central agencies.

Under the CAED Strategy Management Committee, various co-ordinating bodies have been formed to implement the strategy. In the National Capital Region, seven working groups have been established to set up co-operative approaches to delivering the CAED Strategy's different components. These working groups are made up of senior representatives from the three lead departments and from appropriate departments and agencies (i.e., the Secretary of State and the Public Service Commission).

In addition, implementation committees have been, or are being, established in each region. These committees help to harmonize interdepartmental operations, co-ordinate project decision-making where several agencies are involved, and liaise with regional aboriginal leaders.

Partnerships as the Essence of the CAED Strategy

The essence of the CAED Strategy is the development of committed, supportive partnerships between agencies, governments, the private sector and aboriginals. The three lead departments work in consultation and partnership with their aboriginal clients in terms of ensuring that their programs and services are appropriate and responsive. Indeed, the philosophical basis of the CAED Strategy is maximum participation by aboriginal peoples in policy development, program design, service delivery and local decision-making.

The CAEDS Partnership between Government and Indian and Inuit Communities

Within CAEDS, "partnership" implies sharing. For the government, it means relinquishing power and surrendering unilateral departmental control. It means questioning, listening and understanding. It does not mean making decisions first and then trying to get people to accept them.

As a working definition, the partnership between governmental CAEDS participants and Indian and Inuit communities can range from simple listening at one end to implementing agreed-upon solutions at the other. Partnerships can cover specific steps along the way or cover the spectrum of "listening-dialogue-debate-analysis-jointly agreed solutions".

The type of partnership that CAEDS envisages with Indian and Inuit communities includes the following principles:

- A shared appreciation that partnerships are as much a relationship as a process (i.e., a continuing interaction, not just a one-shot deal).
- No partner has a monopoly on setting agendas or managing the process.
- Partners must be flexible, know and trust each other and have the power to make decisions on behalf of their constituencies.
- Partners must share the same level of expectations about possible outcomes and have a long-run, win-win mentality.
- Partnership success is not defined by outputs alone, but by the extent to which outputs meet everyone's expectations.
- Partners' commitment to implement outputs is secured at the outset and all partners are involved in and accountable for implementation.

Indian and Inuit Communities' Participation in CAEDS

There is much potential in Indian and Inuit communities. The resource potential alone of reserves across the country offers opportunities in fields as diverse as cultural and eco-tourism, wildlife harvesting, natural resources, and country and gourmet foods. As well, many Indian and Inuit communities have financial resources that can provide a solid base for investing in economic development.

In terms of organizational structure potential, many communities and tribal groups already have Community Economic Development Organizations (CEDOs) in place to initiate and carry out economic and employment development projects. There are also 27 Aboriginal Capital Corporations (ACCs) across the country that make capital available to aboriginal entrepreneurs. Highly successful Sectoral Development Institutions (SDIs) exist to serve the special needs of Indian and Inuit farmers, fishermen, foresters, craftspersons and trappers.

Most important of all, Indians and Inuit and their leaders place economic development issues high on their lists of priorities. They want to use basic programs such as housing, capital, infrastructure and maintenance to establish construction, supply and service businesses that can serve their own needs, as well as the needs of nearby communities. They want to use these programs as a platform for acquiring training in skilled trades. They are using social assistance entitlements in creative ways to provide long-term income support for individuals trying to develop skills to enter the labour market. Their education programs are increasingly successful in producing graduates able to get good jobs. And they are beginning to establish local taxation regimes using the new powers provided by Bill C-115 (The Kamloops Amendment) in Section 83 of the *Indian Act*.

The past decade has seen some definite progress in Indian and Inuit economic development as evidenced by numerous business success stories across the country. These entrepreneurial role models can serve as practical examples and inspiration for native business people.

Federal Interdepartmental Partnerships

DIAND, ISTC and EIC are expected to forge productive partnerships with their colleagues in other federal, provincial/territorial departments at national, regional and local levels.

Federal departments and agencies can play major roles in expanding opportunities for native economic development. Fisheries and Oceans, for example, can help Indian reserves with community-based fisheries management schemes; Forestry Canada can assist with Indian forest renewal; the Secretary of State can support the development of literacy remediation programs; Energy, Mines and Resources can assist in mapping geological services and surveying; and the Public Service Commission can help aboriginal individuals gain access to federal public service jobs.

Provincial and Territorial Government Partnerships

If it is to be successful, the CAED Strategy must have government-wide support. The provinces and territories can directly increase aboriginal access to economic opportunities through resource licensing, employment and contracting.

Volume II in this handbook describes the most important provincial/territorial programs and services that are available in each region.

Private Sector Partnerships

Potential private sector partners include bankers, developers, joint venture partners and new immigrant and overseas investors. Local Chambers of Commerce are a good source of possible private sector partners. ISTC's publication, *Venture Capital in Canada*, is also an excellent information source. The Canadian Council for Native Business, the Canadian Executive Service Overseas and the Association of Canadian Community Colleges can help expand their members' involvement with Indian and Inuit communities.

Chapter 2 The DIAND/ISTC/EIC Partnership: A Closer Look

As described in Chapter 1, program responsibilities under the CAED Strategy have been allocated to harmonize programming and eliminate service gaps.

The idea behind this allocation was to allow each of the three departments to exercise a more exclusive leadership in certain programming areas where they have been traditionally responsible. In this way, it was hoped that clients would receive much more comprehensive and accessible service.

Lead responsibilities have been allocated as follows:

Community Development	(DIAND)
Resource Development	(DIAND)
Business Development	(ISTC)
Joint Ventures	(ISTC)
Aboriginal Capital Corporations	(ISTC)
Urban Employment	(EIC)
Skills Development	(EIC)
Research and Advocacy	(DIAND/ISTC/EIC)

All three departments are involved in research and advocacy activities with respect to their **lead** responsibilities.

The CAEDS Strategy management structure consists of six working groups under the direction of a management group composed of an assistant deputy minister from each of the three lead departments. These working groups have been established to identify and resolve policy and operational co-ordination issues, and to report overall national and regional progress toward strategy implementation and inter-departmental co-ordination objectives. The working groups report quarterly and annually. DIAND, ISTC and EIC are represented on all working groups.

Business Development: This working group focusses on the Business Development and Joint Ventures CAEDS components. ISTC takes the lead responsibility, with the Western Diversification Office and the Atlantic Canada Opportunities Agency also participating.

Aboriginal Capital Corporations: CAEDS component – Aboriginal Capital Corporations; Lead – ISTC; Also participating – Treasury Board and Department of Finance.

Community Development: CAEDS component – Community Economic Development; Lead – DIAND; Also participating – Secretary of State.

Access to Resources: CAEDS component – Resource Development; Lead – DIAND; Also participating – Resource Sector Departments, Federal-Provincial Relations Office (FPRO).

Human Resources: CAEDS component – Skills Development, Urban Employment; Lead – EIC; Also participating – Public Service Commission.

Research and Advocacy: CAEDS component – Research and Advocacy; Lead – ISTC, with both DIAND and EIC involved in research and advocacy as a lead responsibility; Also participating – FPRO.

These working groups have been set up to:

- develop appropriate national and regional interdepartmental co-ordination mechanisms for policy, planning and operations, and to monitor implementation to ensure effectiveness;
- bring together financial, technical and management assistance for projects of national importance;
- recommend structural reforms to guidelines, criteria or legal regimes that would improve native access to federal economic programs, facilitating more rapid achievement of native economic development objectives;
- develop and maintain beneficial networking arrangements with public, private sector and native interests;
- monitor relevant interdepartmental and intergovernmental agreements, identify issues and make recommendations;
- report progress quarterly to the management group; and,
- share Treasury Board submissions, proposed cabinet memoranda and other information at an early stage of development.

ISTC and DIAND were each allocated A-base funds, initially projected over a five-year planning horizon. The majority of DIAND's portion is dispersed by its regional economic development offices for allocation to Indian and Inuit community economic development activities. ISTC's budget is allocated for business development on a project-by-project basis with recommendations for approval made by Aboriginal Economic Development. EIC does not currently have a separate aboriginal program or budget. Instead, national, regional and district participation targets are set for each of its program elements.

Department of Indian Affairs and Northern Development's Responsibilities

Economic Development Structure – Overview

DIAND's responsibilities within the CAED Strategy are administered primarily through its Economic Development Sector. Economic Development is divided into two main components: Operations and Programs.

Operations:

Operations refers to the activities involved in implementing DIAND's economic development program management responsibilities, providing corporate and regional economic development staff services, and meeting the department's fiduciary and statutory obligations. The activities are outlined as follows:

Activity Management refers to the sector's national and regional operations and maintenance (O&M) expenditures related to national and regional management of sector operations and programs.

Program Development encompasses projects to establish national service delivery standards and assessment criteria, program operating procedures and methods, and performance measures and data-bases.

Fiduciary and Statutory Obligations are met through the following:

Indian Taxation relates to the implementation of Indian Property Taxation Regimes under Section 83 of the *Indian Act* and the operations of the Indian Taxation Advisory Board.

Indian Oil and Gas encompasses the administration of the *Indian Oil and Gas Act* and regulations and associated operations related to on-reserve hydrocarbons by the Indian Oil and Gas Canada Branch.

Resource Inventories covers the maintenance of basic on-reserve resource inventories in relation to departmental responsibilities under Sections 53-1, 57 and 58-4(b) of the *Indian Act* for the administration and regulation of Indian Forestry and Indian Mining.

Environmental Protection refers to DIAND's responsibilities under the Federal Environmental Assessment Review Process.

Programs:

Programs refers to the formal DIAND responsibilities under CAEDS, i.e.:

- lead responsibility for Resource and Community Economic Development
- Commercial Development activities which complement those of ISTC
- Research and Advocacy responsibilities shared with ISTC and EIC

Programs are summarized below:

The Community Economic Development Program draws together all of the regional Economic Development Program budgets (except administration expenditures). Community Economic Development program elements encompass funding for:

- Community Economic Development Organizations (CEDOs)
- Regional Opportunities Program (ROP) including:
  - Sectoral Development Institutions (SDIs)
  - Special Regional Initiatives

The purpose of the CEDO program element is to provide First Nations with the capacity to manage and deliver their own economic development programs in areas such as resource development, commercial development and employment development. Activities and expenditures are controlled by individual First Nations or groups of First Nations. Regions exercise advisory and monitoring responsibilities specified in annual funding agreements.

The Regional Opportunities Program provides the means for First Nations within a region to address development opportunities or service needs that impact more broadly than on one individual community. Regions are responsible for establishing formal advisory and consultation mechanisms which provide assurances that projects and expenditures are in accordance with the wishes of the region's First Nations.

The Commercial Development Program contains all of DIAND's residual business development program activities.

DIAND's roles in the area of commercial development are as follows:

- acting as **lender-of-last-resort** for Indian and Inuit businesses seeking direct loans where there is no ISTC-funded Aboriginal Capital Corporation;
- approving ministerially guaranteed commercial loans to on-reserve businesses;

- providing business development advocacy, brokerage and expertise to Indian, Innu and Inuit communities through Community Economic Development Organizations and Sectoral Development Institutions; and,
- using loan sale write-offs and loan collections program element funds to sell outright, or contract-out the collection of, outstanding direct loans to eligible Indian and Inuit lending institutions.

Note: ISTC's Aboriginal Economic Programs (AEP) has lead federal responsibility for providing equity and technical assistance to aboriginal businesses and Aboriginal Capital Corporations.

The Resource Development Program provides services to Indian, Inuit and Innu communities related to resource development.

Resource development requires, among other things:

- opportunity identification
- skill and knowledge to translate identified opportunities into beneficial projects
- a supportive regulatory framework
- supportive government assistance programs
- brokerage, to match up needs with resources
- information
- networks

DIAND's Resource Development Program addresses these issues.

Resource Access Negotiations (RAN) provides a source of financial assistance for communities to:

- negotiate access to nearby renewable and non-renewable resource development opportunities;
- attract investments in community-owned resources; and,
- establish employment and business benefits from large-scale projects.

The Research and Advocacy Program encompasses projects aimed at:

- influencing national policy and program design;

- researching national structural issues;
- developing positive images and relations with the investment, business and government communities; and,
- informing the public about Indian and Inuit economic development.

This program is managed at headquarters. First Nations and regions may propose projects that have national implications.

DIAND Regional Economic Development Responsibilities

DIAND regional economic development directorates play a major role in bringing together all sources of programming, investment, expertise and information to improve socio-economic conditions in Indian and Inuit communities and reduce welfare dependency. Staff are responsible for:

- helping communities establish regional networks of Community Economic Development Organizations (CEDOs) and Employment and Training Centres that provide effective advisory and program delivery services to communities, enterprises and individuals;
- disseminating business, resource, employment, socio-economic and community development information to assist Indian and Inuit communities in their economic development activities;
- helping Indian and Inuit communities establish effective and advantageous taxation, business and resource management regimes that satisfy all applicable legislative and regulatory requirements;
- influencing the design and delivery of DIAND's basic services programs and federal and provincial economic programs to benefit Indian and Inuit communities;
- promoting public and private sector investment in Indian and Inuit businesses and resources as well as the recruitment of Indian and Inuit people;
- developing and implementing regional strategies for resource-based economic development of Indian and Inuit lands and ensuring that optimum community benefits are derived from mainstream development projects; and,
- establishing co-operative mechanisms with other government agencies and private sector business and investment communities for aboriginal economic development activities.

Industry Science and Technology Canada's Responsibilities

ISTC has the lead role in business financing according to the terms of its Aboriginal Economic Programs (AEP). Through AEP, financing is available for the planning, capitalization and after-care of aboriginal businesses. AEP also helps to establish and diversify Aboriginal Capital Corporations across the country. These ACCs essentially provide aboriginal entrepreneurs with ready access to small business loans and act as an alternative to dealing with chartered banks and other conventional lending institutions.

In summary, ISTC offers a full range of services for business development, including:

- a national network of business development offices with skilled business advisors;
- contributions for business plan development;
- loan insurance to encourage the extension of commercial credit;
- both repayable and non-repayable contributions for a complete spectrum of business applications including business and skills training; and,
- extension services afterwards (i.e., after-care).

ISTC also offers development services to foster a network of Aboriginal Capital Corporations to put funds and expertise in aboriginal hands. These services include:

- start-up assistance and capitalization funding
- development assistance to existing corporations

The "one-window" approach

To ensure maximum efficiency in co-ordinating their respective programs, DIAND and ISTC have implemented a "one-window" approach to business development financing. This approach establishes ISTC as the Office of Primary Interest (OPI) for all native business financing proposals. In other words, all aboriginal business people seeking assistance should apply to ISTC **first**.

DIAND continues to offer on-reserve Indian and band business interests a complementary loan guarantee program to overcome loan security impediments arising from Section 89 of the *Indian Act*. DIAND continues to offer its Indian and Inuit direct loan programs, but **only** in areas not covered by an ACC.

Only when ISTC judges that a business proposal appears to be eligible for DIAND's lending programs, will the file be referred to the appropriate DIAND regional office for further assessment. If the project is then determined to be eligible and viable, DIAND can enter into a debt-financing arrangement with the entrepreneur, either alone or jointly with ISTC.

The role of the Aboriginal Economic Development Boards

Three Aboriginal Economic Development Boards, composed mainly of aboriginal business and community leaders, have been established to review project proposals submitted to ISTC for business financing. These boards also provide advice and guidance to ISTC's Aboriginal Economic Programs in refining their policies and practices.

The National Board makes recommendations to the Minister of State for Small Business and Tourism on all projects involving Aboriginal Capital Corporations, Research and Advocacy projects and Business Development proposals requiring assistance of more than $250,000.

The two regional Aboriginal Economic Development Boards review business proposals involving program investment of up to $250,000. The Eastern Board is responsible for provinces and territories east of the Ontario/Manitoba border, including all Inuit communities. The Western Board covers the area west of the Ontario/Manitoba border, with the exception of Inuit communities in the Northwest Territories.

ISTC's Business Development Program and Joint Ventures Program

ISTC's Aboriginal Business Development Program provides financial and developmental assistance to aboriginal entrepreneurs and communities for commercial ventures. This support can cover a complete business cycle – from the development phase to follow-up business assistance in the first years of operation. The Business Development Program can financially support:

- development of business plans and feasibility studies;
- establishment, expansion or modernization of commercially viable businesses and acquisition of existing businesses, including micro-enterprises;
- new products or services or production processes development;
- marketing initiatives;
- developmental pilot projects;
- follow-up costs, such as technical and professional business advisory services, as required during the first years of the supported business operation; and,

- project-related management, technical and entrepreneurial training.

The Joint Ventures Program is designed to encourage aboriginal entrepreneurs to enter into business with non-aboriginal private sector partners. In addition to the financial benefits, this "partnering" is designed to help aboriginal entrepreneurs acquire managerial skills and expertise.

ISTC's two Aboriginal Economic Programs are national in scope and available to all status and non-status Indians, Inuit and Métis across Canada, including associations, partnerships, profit and non-profit groups that are majority-owned or controlled by aboriginal persons.

All applicants for these programs must have some degree of equity to bring to the project's overall financial package. An appropriate amount of commercial debt financing is also expected. (For more details, see Chapter 3.)

ISTC's (and DIAND's) Debt Financing Programs

Once operational, ISTC's "loan insurance" program will insure up to 85 percent of a business loan made by a bank, or other designated lender, to an aboriginal individual, partnership or corporation. The applicant must satisfy certain eligibility criteria (pursuant to the Loan Insurance Terms and Conditions) and demonstrate the commercial viability of his or her proposal. Once approved, the applicant will be given a "letter of offer" which will confirm to the prospective lender that loan insurance is available under the terms specified. When the lender agrees to make the loan, a "loan insurance agreement" is signed by the lender and ISTC.

DIAND follows a similar process under its "loan guarantee" program, except that the applicant must be a status Indian or band whose property used as security is situated on a reserve. As a result of the "one-window" agreement, ISTC will normally refer such an applicant to DIAND after receiving and reviewing that person's application for assistance.

Similarly, an Indian (on- or off-reserve) or Inuit applicant for one of DIAND's "direct loan" programs will normally be referred to DIAND by ISTC. DIAND's direct loans are available at competitive interest rates, in areas not serviced by an ACC, and only after other forms of business financing have been tried.

Aboriginal Capital Corporations Program

Because aboriginal people have often experienced difficulties in obtaining financing from conventional sources, the former Native Economic Development Program established a network of 27 aboriginal commercial lending institutions. These Aboriginal Capital Corporations make capital available to aboriginal entrepreneurs and provide such financial services as direct loans, loan guarantees and related advisory services.

ACCs are located in practically every province and territory across the country. Over the past five years, the demand on them has increased steadily. To meet this demand, ISTC can provide increased capitalization to expand those ACCs with a proven market demand and performance record. ISTC's ACC program can also support the ACCs' growth and diversification into other financial services such as equity financing and surety bonding. Finally, ISTC can finance the establishment of new ACCs to expand coverage to clients across the country.

DIAND is working together with the ACC program to help the capital corporations move towards self-sufficiency. An example of this assistance is DIAND's initiative to sell or contract out portions of its direct loan portfolios to selected ACCs. These sales and contracts increase the ACCs' commercial viability, diversify their clientele and expand their business experience through the opportunity to manage an additional direct loan portfolio.

Through EIC's Community Futures program, Business Development Centres (BDCs) are established in selected aboriginal communities to offer small business loans and equity investment to community business initiatives, thus complementing ISTC's ACC program.

Employment and Immigration Canada's Responsibilities

The CAED Strategy recognizes that human resource development is an essential part of successful business and economic development. Employment and Immigration Canada has the largest responsibility under the CAED Strategy for employment and training initiatives.

EIC holds the lead responsibility for two of the CAEDS components: Skills Development and Urban Employment. The programs delivered by EIC within these two components are those forming the Canada Jobs Strategy and the Labour Force Development Strategy. Information on these programs is included in Chapter 3.

Within the CAEDS Strategy, EIC will co-ordinate its activities more closely with those of DIAND and ISTC, and increase its consultation with aboriginal groups.

Aboriginal Employment and Training Initiative (AETI)

Established as part of EIC's Labour Force Development Strategy, the Aboriginal Employment and Training Initiative parallels private sector consultation of EIC programs and services. The initiative is intended to respond to aboriginal requests for a new relationship with EIC. The Canada Aboriginal Employment and Training Working Group (AETWG) was formed in November 1989. Composed of aboriginal groups and EIC personnel at both national and regional levels, the working group has produced three documents developing the basis and direction of the initiative:

- *Partnership Principles*
- *Pathways to Success – Background Paper* (Volume III, Annex 12)
- *Pathways to Success – Policy and Implementation Paper* (Volume III, Annex 13)

A summary document, *Pathways in Brief*, is included as Annex 11 in Volume III.

Partnership Principles

The Partnership Principles endorsed by the Labour Force Development Strategy – Aboriginal Employment and Training Working Group (LFDS – AETWG), and concurred with by aboriginal people and the Minister of Employment and Immigration Canada, provide the basis for a new working relationship between aboriginal people and EIC.

EIC's main responsibility is to invest in and develop, in partnership with aboriginal people, a trained aboriginal labour force for participation in unique aboriginal labour markets and the broader Canadian labour market.

The partnership will heighten the effectiveness of the programs offered by EIC by making aboriginal people key players in the decision-making process. The objective in terms of structure is to establish a co-ordinated, consistent and comprehensive approach to aboriginal labour needs. The structure will be developed in consultation and agreement between both partners.

Among the many implementation challenges facing the partners are factors related to regional and local flexibility, joint management processes, effective program and service delivery machinery, appropriate allocation mechanisms, and the specific needs of aboriginal women.

Five partnership principles have been established as the basic framework for identifying and implementing change. Central to each of these principles is active participation and involvement of aboriginal people into the programs that affect them. The Pathways structure, with the use of Local Management Boards, Regional Management Boards and a National Management Board, encourages input from the "bottom-up" and provides support from the "top-down". The goal is to ensure appropriate and consistent approaches to clients and communities across Canada. This will be done using a structure that applies in all regions, yet allows for regional and local flexibility. The goal is to make the employment and training programs offered by EIC more easily accessed by aboriginal people, and to work with them to determine the kinds of programs that will meet unique and diverse local and regional requirements.

This partnership is based on the following five principles:

1. Consultation process and local control of decision making:

   National, regional and local consultation/management boards will be established to ensure that the needs and priorities of the aboriginal community are addressed and are reflected in the design, development and implementation of EIC policies that affect them.

   The model, which will be agreed upon by the partners, will be founded on aboriginal local-level decision-making. It will reflect a set of consistent criteria and objectives on a national basis but, at the same time, provide for regional/local flexibility.

2. Delivery mechanisms:

   Employment and training programs and services will be managed, operated, conducted and arranged through aboriginal infrastructures (i.e., First Nations, Inuit and Métis organizations, aboriginal communities, tribal councils and institutions).

   Because existing aboriginal organizations are best situated to know the needs of their regions and communities, this will help ensure that EIC training and employment programs meet the special requirements of local labour markets.

3. Funding mechanisms and institutional development capacity:

A funding mechanism will be developed which recognizes the planning and operational needs of aboriginal delivery machinery and develops a capacity reflecting the level of need in aboriginal communities.

An aboriginal national allocation would reflect the need for labour market equality and recognize the uniqueness of aboriginal labour force needs.

4. Employment equity:

EIC will undertake pro-active measures to improve recruitment, training and employment of aboriginal people both internally and externally (i.e., private sector, federal contractors, provinces, and federally regulated employers).

The mechanisms implemented will take into account the availability and location of potential aboriginal employees; needs of the aboriginal labour market; willingness of employers to recruit, hire and retain aboriginal people; capacity of aboriginal directed labour market exchange services; and, influence of existing or potential private sector placement services for aboriginal people.

5. Eligibility for programs and services:

Consistent with the above principles, aboriginal delivery machinery, where in place, will be given the discretion to determine a person's eligibility for programs and services, and there will be a reliance on counselling for determining eligibility rather than strict eligibility criteria.

The criteria for enrolling in training and employment programs will be designed from an inclusive rather than exclusionary perspective. By recognizing the unique individual and group needs, EIC will provide greater program flexibility for eligibility and entitlement to labour market programs and services.

Chapter 3: The CAEDS Program Specifics

Each of the three departments' specific roles and responsibilities, in terms of what they deliver to Indian and Inuit communities, are described in this chapter.

While the CAED Strategy is composed of eight components, for each of which one of the three departments assumes lead responsibility, the programs delivered by DIAND, ISTC and EIC do not match-up one-for-one with the CAEDS components described in Chapter 2.

CAEDS is a strategy for bringing these three departments into closer co-ordination with each other and into partnership with other interest groups. As the departments are bringing existing programs and services into the strategy, there are areas where more than one department provides programs and services, and cases where the programs do not fit neatly under one of the CAEDS components.

The program outlines presented in this chapter have been organized to follow the component breakdown of the CAED Strategy as closely as possible, within these limitations.

DIAND Programs and Operations

Programs:

Community Economic Development Program

Purpose

To assist communities and their members define and achieve their economic goals and objectives through business, employment and resource development activities.

The Community Economic Development Program is divided into two program elements for budgetary allocation purposes:

- Community Economic Development Organizations (CEDOs)
- Regional Opportunities Program (ROP) including:
  - Sectoral Development Institutions (SDIs)
  - Special Regional Initiatives

Community Economic Development Organizations (CEDOs)

Purpose

To provide a stable organization, managed and staffed with qualified people and operating within the mandate and direction of the community(s) it serves, through which the community plans, develops and achieves its economic potential. CEDOs work to fulfil this purpose by providing economic and employment advisory services, programs and equity funding assistance.

Overview

A CEDO may be formed by a tribal council, unaffiliated band, an Inuit or Innu community or group of communities, or a wholly owned non-profit community development corporation.

Within this program element regions work in partnership with communities to seek the most practical, efficient and effective means of establishing CEDO programs and services that meet First Nation needs. Tribal councils may be best placed to provide the optimum level of CEDO services to groups of smaller communities; bands are encouraged to group together or affiliate as tribal councils in order to achieve greater efficiency and effectiveness in service delivery. Large communities may have the capacity and the work-load to merit their own stand-alone services.

Other ways of grouping services may be chosen to fit local circumstances.

A set of national principles has been established for CEDO funding (see below). However, regions, in consultation with First Nations, have the authority to design CEDO funding formulas that are appropriate to their particular circumstances. Such formulas must provide an equitable long-term budgetary base for CEDO operations throughout the region.

Communities may use funds allocated to them for a wide range of purposes. These uses are specified in Economic Development Sector Terms and Conditions approved by Treasury Board and include:

- Enhancing organization development and Board of Directors and staff capacity to deliver program services;
- hiring staff or consultants;
- preparing economic strategies;
- planning business and resource development projects;

- providing contributions, repayable contributions or loans to community members for training or business development;
- taking equity positions in private or community enterprises;
- investing in resource development;
- initiating job-related training and employment programs [Note: Social Assistance Recipient (SAR) authorities are important here]; and,
- levering management, technical and financial resources.

Eligible recipients

Tribal council, unaffiliated band, an Inuit or Innu community or group of communities, or a wholly owned and controlled non profit community development corporation.

Roles and responsibilities

First Nations/Tribal Councils/Communities exercise policy and management control over their CEDO services through appropriate management structures (i.e., CEDO Boards of Directors), and ensure quality of services and CEDO accountability to the communities or constituencies they serve. CEDO Boards approve goals, objectives, staffing and operating plans, and represent their communities' economic development interests with other agencies and levels of government. CEDOs replace DIAND in providing services to individuals.

DIAND Regions implement the program in partnership with First Nations and make recommendations on national policies. Regional staff are available to help CEDOs assess their progress in relation to their annual operating plans, and to assist with problem-solving in service delivery. Staff also help CEDOs to obtain services, funds and assistance from other public or private sector agencies, and provide technical assistance on major projects. Regions assist CEDOs in developing their capacity to deliver programs and services through staff training and development; facilitating CEDO information exchange and networking; and providing information on regional and national economic trends and opportunities.

DIAND Headquarters (Community Economic Development Directorate) sets national policies and standards in consultation with regions and First Nations; co-ordinates the development of generic CEDO capacity building tools (Board of Directors handbooks, training modules, negotiating skills); implements Community Economic Development national staff training and development initiatives; and, undertakes periodic regional monitoring and on-site reviews as a basis for helping regions improve results.

Budgetary regime

The maintenance of current CEDO budgetary levels has first funding priority within national and regional allotments. Subject to the availability of funds and the government's departmental budgeting process, **the 1990-1991 allocations form the long-term base** that will permit communities to develop and operate their CEDOs within predictable levels of funding. If cost of living adjustments are made available by Treasury Board for this program element, CEDO allocations will be adjusted accordingly.

Tribal or band councils funded under Tribal Council Funding (TCF) for Economic Development Advisory services are designated recipients of CEDO funding. Those councils and member bands determine program delivery appropriate to their circumstances. Bands are responsible for establishing agreements within their tribal councils with respect to appropriate distribution of CEDO funds and services between the tribal and band levels. Indian, Inuit and Innu communities that are not affiliated to tribal councils are also eligible recipients for CEDO funding. Regions will establish funding arrangements respecting CEDO funds in a manner that is consistent with general regional band and tribal funding policies.

Bands and tribal councils may be eligible to have their administration overheads resourced through tribal council and band support funding in accordance with DIAND Indian services policies.

How communities apply

In order to access program funds, communities submit operating plans annually to the regional office. These plans describe the results the CEDO intends to achieve and the communities' economic development goals and priorities. The plans should:

- show how the CEDO will enhance its economic development management capacity;
- explain how the CEDO will organize its service delivery; and,
- define source and application of funds.

(See Annex 2, for **Operating Plan Requirements.** Program funds may be used to hire expertise in preparing operating plans.)

Funding arrangements are based on operating plans. Year-end reporting of results to DIAND is defined by these outputs for each CEDO, with some minimal standard reporting requirements to enable national reporting to Parliament. Before the current year's second quarter funds are released, national reporting requirements annexed to the previous year's agreement must be met.

National CEDO policies and standards

Centralized provision of economic services to groups of communities are encouraged. Tribal councils, where they exist, are the preferred delivery vehicles.

CEDOs must assume the full range of services for which they are being funded, and are accountable to their constituent communities for the quality of services they provide.

Program funding is contingent upon the receipt of a CEDO's annual operating plan that meets national requirements (Annex 2), and **end-of-year** national standard **results** reporting requirements (Annex 4).

Regions, in co-operation with CEDO's, will conduct annual operational reviews to assess program performance results against the initial operating plan projections and complete individual CEDO Typology Framework matrixes.

An annual report is to be provided to the Assistant Deputy Minister, by each region, composed of:

- a regional overview and summary of issues, and
- included for each CEDO:
    - page one of the CEDO Typology Framework matrix and
    - a copy of Annex 4

Regional Opportunities Program (ROP)

Purpose

To provide the means for Indian and Inuit peoples to take maximum advantage of region-wide economic opportunities. This may be accomplished through the establishment or purchase of regional sectoral development, advisory and extension services, through participation in federal-provincial economic agreements, and through levering access to federal sector development programs and services. The program also funds policy research and innovative projects specific to the region.

Policy

In order to ensure that the Regional Opportunities Program is responsive to Indian and Inuit regional priorities, the policy of the department is to co-manage the program through regionally mandated Indian and Inuit advisory authorities. As a result the institutions and projects funded by the program will be accountable to the regional advisory authorities. These advisory authorities will act within the mandate established by the region's Indian/Inuit leadership and will have an arms-length relationship to the institutions and projects funded under the program. The objective is to have formal advisory boards in place in each region before the end of the 1991-1992 fiscal year. The department's regional staff provide secretariat services to the advisory authorities and administer the funds.

Overview

The program element is designed to serve the region-wide priorities of First Nations with respect to major emerging economic development opportunities (resource-based, commercial or other opportunities), by assisting with research and advocacy activities and the development of self-reliant Sectoral Development Institutions.

The First Nations mandated advisory authorities, in conjunction with regional staff, determine how program element resources are to be used and allocated to the two sub-elements:

- Sectoral Development Institutions
- Special Regional Initiatives

Expenditures must conform to Treasury Board approved Sector Terms and Conditions. These prohibit making direct business equity investments, but otherwise permit regions full discretion in undertaking a wide range of development initiatives such as regional opportunity identification, regional market analysis, demonstration projects, etc.

Sectoral Development Institutions (SDIs)

Purpose

To assist communities create or strengthen self-reliant regional or national institutions that service their common regional or sectoral needs for management, professional, marketing, advocacy and other commercial development assistance.

Overview

Sectors, as opposed to geographic areas, include, but are not limited to, agriculture, minerals, energy, forestry, fishing, tourism, and arts and crafts.

Sectoral Development Institutions may provide a variety of products and services such as technical and professional advice to increase the profitability of existing businesses; assistance in business planning and development; brokering public and private sector financial support; policy advocacy with governments; direct business investment and lending; marketing, export counselling and services; and product quality control and labelling.

Program resourcing policy (Annex 5) is to use strategically the scarce funds available to help First Nations build a broad development capacity base across **all** regionally and nationally important sectors. Subject to regional First Nations' advice, program element funds are directed primarily towards helping new and existing institutions become independent from direct DIAND core-funding. Financial assistance for ongoing operations of existing institutions is being phased out. DIAND staff are available to provide advice and assistance to institutions in achieving financial self-reliance, as well as on ongoing operational matters.

Eligible recipients

For new institutions: individuals or groups (usually the prospective officers of the proposed institution) who plan to establish an institution in support of Indian, Inuit or Innu sectoral development.

For existing institutions: incorporated SDIs who present a board-approved operating plan that demonstrates cost-effectiveness and constituency support for its services.

Roles and responsibilities

First Nations provide DIAND with advice and direction respecting priorities and relative needs among competing sectoral interests.

Regions ensure regional investments and activities are in accordance with First Nations priorities through appropriate consultation mechanisms; assist SDIs become viable and effective; and periodically monitor SDI performance with respect to Flexible Transfer Payment (FTP) terms and conditions.

Headquarters establishes national Sectoral Development Institution policies and standards; ensures that investments in SDIs representing national interests are broadly supported by First Nations and lead to viable, effective organizations and periodically audit national SDIs with respect to FTP terms and conditions. Resource Development Directorate is responsible for SDIs in the resources and tourism sectors; Commercial Development Directorate is responsible for SDIs in all other areas.

How Sectoral Development Institutions apply

Regions are responsible for the allocation of portions of their Community Economic Development budget to regional SDIs. Similarly, headquarters decides allocations to national SDIs.

Program funds may be provided to existing SDIs for purposes defined in the SDI's operating plan which defines its organization, management, staffing, services, planned deliverables and results, and planned source and application of funds. The flow of funds and associated terms and conditions are formalized through Flexible Transfer Payment Agreements, which may cover more than a one-year period.

Specific projects related to the development of new or expanded SDI services or those seeking alternative long-term funding sources are formalized in Financial Agreements. They normally cover a period of less than one year, and result in a document detailing future action recommendations.

National SDI policies and standards

To be eligible for program assistance, SDIs must demonstrate cost-effectiveness and broad First Nations constituency support for their products and services.

Proponents of new institutions may be assisted financially to develop their products, clients and independent sources of funding. First year start-up costs may be eligible for funding, but subsequent operating costs are not.

Existing institutions seeking to increase their self-reliance or expand or improve their services may be financially assisted with assessing their mandates or operations, or in seeking new sources of funds. Direct program funding of operating costs will be phased out over an appropriate period of time, in consultation with the institution and First Nations. Requests for assistance in developing a specific business plan will be referred to ISTC's Aboriginal Business Development Program.

National policy may be adjusted regionally on the advice of First Nations leadership, where recognized consultation mechanisms are in place that permit them a central role in regional decisions respecting the management of the program element.

Special Regional Initiatives

The Regional Opportunities Program also supports special regional projects. DIAND regions, in full partnership with First Nations leadership within the region, are able to fund special regional development opportunities through the Special Regional Initiatives program sub-element. Projects must demonstrate the potential to benefit local economies.

Commercial Development Program

Purpose

To provide viable Indian and Inuit businesses ready access to commercial debt financing in a manner complementary to ISTC's business financing and ACC programs and to conventional commercial lenders; to maximize the cost-effectiveness of DIAND business loan portfolio administration; and, to offer business advocacy, advisory and developmental support where these are not otherwise available.

Overview

Aboriginal businesses operating in Indian/Inuit communities often have limited access to commercial debt financing because of the entrepreneur's lack of experience, the legal limitations to providing security created by Section 89 of the *Indian Act*, and the distance of the community from mainstream banking facilities. While a 1988 amendment to Section 89 made possible the pledging of leasehold interests on designated lands as security, Section 89 remains a significant obstacle to doing business on-reserve.

To help overcome these obstacles, DIAND offers various commercial debt financing programs to Indian and Inuit business interests.

An Indian loan guarantee program is available to on-reserve Indian entrepreneurs and bands to help overcome Section 89 security restrictions and enable them to develop long-term credit relationships with mainstream banking institutions. This program is complementary to ISTC's aboriginal loan insurance program which is available to all off-reserve aboriginal business enterprises and on-reserve corporations.

An Indian direct loan program provides access to debt financing for Indian business enterprises both on- and off-reserve. This facility complements rather than replaces banks and other commercial lending institutions. It is a lender of "last resort", in cases where viable Indian businesses cannot obtain other financing. An Inuit direct loan program, established for the same purposes, serves Inuit business interests. Direct loans are not available where an ACC is in place.

As of late 1990, Loan Guarantee and Direct Loan authority levels are as follows:

Indian Loan Guarantee:	$60m of which $30m is presently available*
Indian Direct Loan:	$64m of which $38m is presently available*
Inuit Direct Loan:	$7m of which $5m is presently available*

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*While the amounts shown reflect what is presently available within the total authority levels, there are limits set as to how much can be approved in any one year, as well as signing authority limits per transaction.

The Indian and Inuit direct loan portfolios in late 1990 comprised about 1,000 accounts for a total value of $29m (principal only).

In approving CAEDS, the government further authorized the Minister of Indian Affairs and Northern Development to enter into agreements with Indian and Inuit lending institutions to sell all or parts of the direct loan portfolios. The aim is to sell outright or to contract out the administration and collection of about $20m (700 accounts) in Indian and Inuit direct loans to aboriginal lending institutions in every region of the country. These sales or contracts benefit all parties concerned. Indian and Inuit entrepreneurs are better served by dealing with a local financial institution that understands, and can help with, their particular needs. The aboriginal lending institutions involved benefit from increased revenues, from a broader client base and business expertise, and from greater self-reliance. DIAND benefits by reducing its administration costs, and offering a more effective and personalized loan administration and collection service.

Eligible recipients

For loan guarantees: Indian entrepreneurs and bands who meet program conditions, and whose ability to obtain a loan from a bank or a conventional lending institution is prevented by security restrictions of Section 89 of the *Indian Act*.

For direct loans: Indian/Inuit entrepreneurs, bands, corporations in areas (geographic and sectoral) where no ISTC funded ACC is operating and who meet program conditions (Volume II).

For direct loan sales or contracting-out agreements: an incorporated native owned and controlled commercial lending institution (usually an ACC) which has undertaken full public disclosure of its mandate, level of service and loan criteria, and has demonstrated managerial and delivery capacity. In the case of sales, the institution must have access to sufficient free capital to buy out the loans at the negotiated price.

Roles and responsibilities

CEDOs: Research local business establishment/expansion and joint venture opportunities, and seek out prospective local entrepreneurs and investors. Assist businesses and prospective entrepreneurs to develop business plans, assess their financing and other requirements, identify sources of funds, prepare proposals, and act as brokers for obtaining institutional assistance. Provide modest financing to eligible business projects through equity investment or contribution (repayable or non-repayable). Provide ongoing advice to newly formed and existing businesses to assist them to become and remain viable, and to meet their full commercial potential.

DIAND Regions: Assist CEDOs to effectively carry out their responsibilities in business development. Provide information to CEDOs respecting regional business establishment/expansion and joint venture opportunities and assist them on large projects to find prospective entrepreneurs and commercial and government partners and investors. Influence developments and manage relationships in the non-resource (i.e., industrial, service and consumer products) sectors, including regional arts and crafts. Maintain close liaison with ISTC's Aboriginal Economic Programs offices, both directly and through regular CAEDS co-ordinating committee meetings, and in accordance with the "one-window" approach to aboriginal business financing (see "INAC/ISTC Implementation Agreement" in Volume III). Assess applications and approve (or recommend to headquarters) loan guarantees and direct loans for eligible recipients. Administer and collect the regional loan portfolios. Participate in the loan write-off process with regional finance units. Promote and negotiate direct loan sales and contracting-out agreements.

ISTC Regional Offices: Assess business funding applications and forward those warranting a DIAND loan guarantee or direct loan to the appropriate DIAND regional office in accordance with the "one-window" approach.

DIAND Headquarters, Commercial Development Directorate: Establish sector loan administration policy and procedures in consultation with regions, Indian/Inuit representatives and bankers. Maintain national operational and policy liaison with ISTC and the ADM co-ordinating structure under CAEDS. Represent the department on ISTC's Aboriginal Economic Development Boards in an ex-officio, non-voting capacity. Provide functional direction over regional loan portfolio administration and systems, and conduct periodic operational reviews of regional lending practices. Recommend loan and guarantee decisions to the HQ Loan Committee, chaired by the ADM Economic Development. Assist regions to conclude direct loan sales and contracting-out agreements. Participate with headquarters Finance Branch in the loan write-off process including representation on the departmental Debt Write-off Committee.

Conduct research and provide information to regions respecting large scale business establishment/expansion opportunities and assist them on major projects to find prospective commercial and government partners and investors. Co-ordinate efforts into resolving outstanding impediments to Indian/Inuit commercial development, and identifying opportunities arising from the implementation of new legislative and policy initiatives. Functionally manage developments and relationships in the non-resource (i.e., industrial, service and consumer products) sectors, including arts and crafts. Maintain contact with and/or directly support a network of public and private stakeholder in Indian and Inuit business development.

Accessing DIAND Lending Programs

The "one-window" approach

To ensure maximum efficiency in co-ordinating their respective programs, DIAND and ISTC have implemented a "one-window" approach to aboriginal business financing (see "INAC/ISTC Implementation Agreement" in Volume III). This approach establishes ISTC's Aboriginal Economic Programs offices as the point of first contact for all aboriginal business financing proposals.

All aboriginal businesses seeking federal assistance are to apply **first** to ISTC. Only when ISTC judges that a business proposal appears to be eligible for, and warrants the use of, one of DIAND's lending programs, will the file be referred to the appropriate DIAND regional office for further assessment. If the project is then determined to be eligible and viable, DIAND can enter into a debt-financing arrangement with the applicant, either alone or jointly with ISTC financing.

Indian "on-reserve" loan guarantees

DIAND's loan guarantee program may guarantee up to 85 percent of a business loan made by a bank, or other designated lender, to a Status Indian or band whose property to be used as security is situated on-reserve. In accordance with the "one-window" approach, ISTC may refer such an applicant to DIAND after receiving and reviewing that person's application for assistance. The applicant must satisfy certain eligibility criteria (pursuant to the Loan Guarantee Order) and demonstrate the commercial viability of the proposal.

Once approved, the applicant is given a "letter of offer" which confirms to the prospective lender that the guarantee is available under the terms specified. When the lender agrees to make the loan, a "loan guarantee agreement" is signed by the lender and DIAND.

Indian and Inuit direct loans

An Indian (on- or off-reserve) or Inuit applicant for one of DIAND's "direct loan" programs will normally be referred to DIAND by ISTC. DIAND's direct loans are available under terms and conditions set by Governor-in-Council or Treasury Board, at competitive interest rates (Prime + 1%), only in areas not serviced by an ACC, and only as a "last resort", after other forms of business financing have been deemed to be unobtainable.

Delegated approving authorities

Regions have authority to approve loan guarantees and direct loans to a certain delegated maximum – beyond this, headquarters approval must be sought. Headquarters approval will be subject to recommendation from the HQ Loan Committee (on which ISTC is represented in an ex-officio, non-voting capacity).

Administering loan write-offs

In order to more accurately reflect the Crown's asset position in its books of account, the Treasury Board administers, under the terms of the *Financial Administration Act*, a debt write-off process for loans and other receivables deemed to be uncollectible. Such uncollectible loans in the Economic Development Sector are processed through the department's Finance Sector for write-off approval and ultimately Parliamentary acceptance in the Estimates. Regional economic development staffs provide functional input with the assistance of headquarters Commercial Development staff (including case-by-case justification pursuant to established write-off criteria). Write-offs within delegated regional authority are approved by a regional write-off committee; those requiring higher authority are approved (or recommended to Treasury Board) by a departmental debt write-off committee convened by HQ Finance Branch with representation from HQ Commercial Development Directorate.

It is important to note that the act of **"write-off" in no way releases the debtor from his/her/its obligation to the Crown** – "write-off" is simply an accounting transaction to adjust the books of account of the Government of Canada (it should not be construed as "forgiveness").

Applying to purchase part of the direct loan portfolios

Any aboriginal lending institution (generally an ACC) may apply to purchase outright a certain portion of one of DIAND's outstanding direct loan portfolios. A simple letter of intent to the appropriate DIAND regional office is sufficient to open discussions and possibly negotiations. Again, the aboriginal lending institution will need to demonstrate not only its capacity to manage the loans, but also that it has the support of the local Indian or Inuit communities to proceed with the acquisition. DIAND has the authority to sell its outstanding loans for something less than their book value (principal and interest) based upon an independent evaluation of their fair market value. Upon reaching agreement, the purchaser will accept full ownership and responsibility for the debts; DIAND will, in turn, withdraw from any future direct lending activity in the purchaser's constituency (geographic or sectoral).

Applying to administer part of the direct loan portfolios under contract

Any aboriginal lending institution (generally an ACC) may apply to administer and collect, on a fee-for-service contractual basis, a certain portion of one of DIAND's outstanding direct loan portfolios. As with the sale/purchase option, a simple letter of intent to the appropriate DIAND regional office is sufficient to open discussions and possibly negotiations. Again, the aboriginal lending institution will need to demonstrate that it has both the capacity and community support to proceed. All such contracts will be negotiated annually on a fee-for-service basis, with payments tied to both the number of accounts administered and the amount of principal and interest collected on behalf of the Crown. DIAND will remain responsible for managing the contract and processing accounts for write-off and/or legal recourse.

Resource Development Program

Purpose

To assist Indian, Inuit and Innu communities realize on- and off-reserve business and employment opportunities in the resource and tourism sectors in conjunction with major project developers, provincial and territorial governments and other parties.

Overview

Increased access to and commercial development of their natural resources and an increase in involvement and participation in major projects near reserves represent the best economic future for many communities. Governments are often major players in resource and tourism development as owners, protectors or regulators of the resource, as financiers of development or resource management projects, or as providers of professional, marketing and management services.

DIAND's objective is to ensure specific benefits for aboriginal people in resource-based economic development activities carried out or financed by federal, provincial or territorial governments. Ensuring preference for aboriginal people in licences for tourism and traditional activities would be one practical example. Other examples include seeking agreements on aboriginal-targetted programs or joint program delivery in northern and remote regions; ensuring aboriginal project proposals are considered by the Atlantic Canada Opportunities Agency; including specific Indian forestry components in co-operation agreements; and, access by Indian communities to the management of resources in the areas surrounding their communities.

DIAND also helps communities access provincial/territorial agencies' and other departments' technical advisory services, programming and training, internships, interchange programs and employment, as well as sub-contracting local field services. This includes co-ordinating assistance from ISTC and EIC to foster resource-based and related economic development.

Under the program DIAND provides specialist staff resource development advisory services to communities. These include, for example, forestry, minerals and fisheries resource management planning; professional assistance to sectoral corporations; advice on the use of taxation and other legal powers under the *Indian Act* and subordinate regulations; and, information and advice on environmental protection issues.

Eligible recipients

Bands, tribal councils, Inuit and Innu communities or organizations with a mandate to represent First Nations interests in resource development.

Roles and responsibilities

First Nations/Tribal Councils/Communities have primary responsibility for resource development. Specifically, they are expected to:

- identify resource-related opportunities;
- acquire or develop resource-related skills and knowledge;
- identify resource-related regulatory constraints, discriminatory government programming, or gaps in government programming, and bring these to the attention of DIAND or develop aboriginal mechanisms to deal with them;
- utilize available, resource-related government and private sector assistance;
- develop the capacity to secure essential, resource-related information; and,
- participate in or work to establish beneficial resource-related networks.

DIAND Regions work in partnership to assist First Nations/tribal councils/communities by:

- identifying resource-related opportunities, ensuring First Nations/tribal councils/communities know how to identify resource-related opportunities and supporting Indian initiatives such as workshops and conferences through which resource-related opportunities can be identified;
- providing learning systems (workshops, courses, seminars, printed materials, videos, etc.) through which communities can acquire resource-related development skills and knowledge;
- responding to identified, resource-related regulatory constraints, unfair government programs or government program gaps by addressing regional problems directly and by notifying DIAND headquarters of national or multi-regional problems;
- ensuring communities are aware of available resource-related government programs and private sector assistance;
- ensuring communities know what kind of resource-related information is available and where this information can be acquired; developing regional level data-bases and organizing available regional level data into useable formats; and,
- supporting Indian initiatives to participate in or establish regional resource-related networks.

DIAND Headquarters assists DIAND regions and First Nations by:

- providing regions with generic information on resource-related opportunities and techniques on how to identify opportunities;
- supporting DIAND regional initiatives to develop resource-related learning systems through promoting the sharing of tools (courses, experts, videos, etc.) among regions, providing technical expertise, securing access to federal expertise in other departments, on-line data- and information-bases, developing how-to guides, etc.;
- addressing resource-related regulatory constraints, unfair government programs and government programming gaps of a national or multi-regional character (an example of this type of activity would be working towards overdue changes to the Indian forestry regulatory regime);
- providing DIAND regions with information on national resource-related data and how to access it; making national, resource-related information more readily available to regions and communities; and,
- supporting Indian initiatives to participate in or establish national level resource-related networks.

Resource Access Negotiations (RAN)

Purpose

Through Resource Access Negotiations DIAND can provide Indian, Inuit and Innu communities with financial help to negotiate access to develop nearby (off-reserve) resources, to attract commercial investment in developing community-owned resources, or to establish agreements with developers of large-scale projects that offer business and employment opportunities.

Eligible recipients for RAN

Bands, tribal councils, Sectoral Development Institutions, communities or associations of communities

Eligible projects include those that generate business and employment benefits; promote community-control of resource development; or partner with provinces or territories to access resource development; as well as negotiating activities such as proposal development, actual negotiations, developing draft agreements and undertaking community consultation.

Roles and responsibilities

First Nations identify the need for assistance and make application to DIAND regions.

Regions establish local co-ordination mechanisms and develop agreements with other agencies taking into account national CAEDS objectives; identify opportunities for negotiations and pass these along to communities; provide technical assistance and advice on projects; analyze RAN applications; and, make recommendations to headquarters.

Headquarters, Policy Branch, co-ordinates the establishment of objectives for national CAEDS Federal-Provincial/Territorial Agreements within DIAND and with ISTC and EIC.

Headquarters, Resource Development Directorate, sets program policies and standards and manages the RAN budget. The ADM, Economic Development, approves project funding.

How First Nations apply for RAN funding support

RAN projects are funded on a best opportunity basis vis-à-vis anticipated benefits and likelihood of success. The initial applications are made by First Nations to regional offices which carry out a preliminary analysis relative to national assessment criteria and submit project analyses to headquarters on a semi-annual basis. The Resource Development Directorate at headquarters recommends projects to the ADM, Economic Development, for approval in accordance with assessment criteria. Once funds are approved, they are transferred to the appropriate region which establishes and manages the project contribution agreement.

National RAN policies and standards

Projects must comply with RAN objectives and eligible purposes.

There must be one or more parties willing to negotiate seriously with the applicant, and a reasonable basis for believing the negotiations will be successful.

Proposals must demonstrate that the work plan can be implemented for the proposed cost and within the proposed time frame, and that the work will create the anticipated benefits by the anticipated times.

Applicants must demonstrate their ability to manage negotiations of the size and complexity being proposed.

Proposals should achieve their outputs in a cost-effective manner.

Expected benefits from the desired agreement and resulting economic activity must exceed costs of negotiations.

Applicants are expected to have made best-efforts to secure funding for negotiations and related activities from other potential sources.

Projects must be completed in a defined time period and not be ongoing in character.

Requests to increase funding for an approved project will not be considered, except where the request results from circumstances beyond the control of the proponent.

Note: RAN is only one component of CAEDS that supports resource development. Funding provided to Community Economic Development Organizations enables the communities to develop the capacity to research and develop local strategies for resource development. Regions may use other Community Economic Development Program funds to support resource development projects. ISTC's Aboriginal Business Development Program provides funds for business capitalization and joint ventures. EIC takes the lead in developing the employability of aboriginal people in the resource and tourism sectors through support for skills training.

Operations – Meeting Fiduciary and Statutory Obligations

A. Resources

Indian Oil and Gas Canada

Indian Oil and Gas Canada (IOGC) works to promote oil and gas exploration, development and production on reserves, through its administration of the *Indian Oil and Gas Act* and regulations.

IOGC works with bands and Indian institutions to facilitate oil and gas related economic development activities by:

- evaluating on-reserve oil and gas wells, determining pool and field reserves and assessing geological potential;
- providing forecasts and sensitivity analyses on royalty revenues from existing oil and gas production;
- evaluating and advising on royalty and working interest options to ensure continued operation of low productivity wells and ongoing economic benefits to bands;
- providing technical assistance in accessing and compiling non-proprietary oil and gas data-base information;
- providing technical assistance, advice and recommendations to bands by way of preliminary assessments of viability and economics of ownership interests in oil and gas drilling ventures or producing properties;
- consulting with and providing assistance to bands in identifying oil and gas opportunity areas and in addressing the oil and gas component of economic development planning proposals; and,
- facilitating industry contacts.

IOGC can provide some of the technical skills typical of a smaller non-operating oil and gas company. As a result, IOGC maintains resource inventories and assessments of oil and gas potential; assists bands by identifying opportunities and recommending joint strategies for development; and, negotiates agreements for development and monitors compliance with these agreements.

IOGC also maintains an active liaison with oil and gas companies, industry associations, and the Indian Resource Council (IRC) on matters related to employment and training initiatives. IOGC works with bands and Indian institutions to facilitate economic development in the area of oil and gas.

How to apply

Information may be obtained from the Executive Director, Indian Oil and Gas Canada, P.O. Box 2924, Station "M", Calgary, Alberta, T2P 2M7; telephone: (403) 292-5625.

Resource Inventories – Minerals

The Resource Development Directorate works in conjunction with bands to promote development, exploration, production and sale of on-reserve mineral resources, through the *Indian Act* Sections 58(4)(b) and 57(c) and the administration of the Indian Mining Regulations.

The Resource Development organization works in partnership with First Nations, their communities, ISTC and EIC to facilitate metallic and non-metallic mineral-related economic development activities by:

- ensuring the best deal through the evaluation of on-reserve mineral deposits (this may entail determining quantity, quality and market potential);
- providing analysis of commodity demand and price structures;
- evaluating and advising on royalty rates and alternative options to ensure maximum economic benefits to bands;
- providing technical assistance in accessing and compiling mineral resource data-base information;
- providing technical assistance, advice and recommendations to bands on the administrative requirement for permits and minerals leases; and,
- consulting with and providing assistance to bands in identifying mineral opportunities through the Mineral Resource Potential of Indian Reserve Lands report and evaluating mineral proposals and opportunities.

The directorate can provide the technical skills necessary to develop minerals on reserve lands. The directorate maintains a comprehensive mineral resource inventory and mineral potential data-base; assists bands by identifying mineral opportunities and recommending strategies for development; and, assists in the negotiation of mineral agreements and monitors compliance with these agreements.

Environmental Protection

The Federal Environmental Assessment and Review Process (EARP) must be applied to all federal government activities to ensure protection of the environment. Federal government projects must be screened to ensure that they cause the least possible damage to the environment.

Guidelines for the implementation of the process are being developed and will be issued by order-in-council under the authority of the *Government Organization Act, 1979*. The EARP Guidelines Order came into effect on June 21, 1984. Environment Canada has recently re-affirmed its commitment to legislate EARP as soon as possible. The *Canadian Environmental Assessment Act* (CEA) should be legislated by July, 1991.

EARP must be applied by a federal department when a project involves:

- federal area of responsibility
- federal money
- federal decisions

Under EARP, the following environmental responsibilities apply:

- The Economic Development Sector reviews, screens and monitors projects located on-reserve where direct loans or guarantees have been provided, or resource projects where leases or permits are required.
- Under the CAED Strategy, the lead agency for ensuring fulfilment of the Government of Canada's responsibilities for environmental assessment and review is:
    - in the case of jointly funded projects, the department with the highest financial stake;
    - ISTC for projects that it funds solely; and,
    - DIAND for projects that it funds solely or otherwise approves solely through exercising its responsibilities under the *Indian Act*, i.e., issuing leases.
- CEDOs are required to implement EARP for their projects. However, the Economic Development Sector ensures that CEDOs assume environmental assessment and monitoring responsibility by incorporating these requirements in the financial arrangements with the CEDOs. CEDOs should also ensure that their commercial activities do not contravene applicable federal or provincial legislation.

The Federal Environmental Assessment Review Office and DIAND will provide CEDOs with training in environmental assessment methodology.

Agriculture Canada and Fisheries and Oceans are also available to provide both DIAND and CEDOs with technical advice and guidance on environmental assessment problems relating to development projects.

B. Taxation

Indian Taxation Services

The Indian Taxation Advisory Board

The Indian Taxation Advisory Board, created in 1989, advises band governments and the Minister of Indian Affairs and Northern Development on the establishment of Indian real property taxation systems on reserves. The Board is appointed by the Minister and comprised of 10 members. Seven are Indian leaders who possess knowledge and experience in areas such as Indian, federal and provincial government, property taxation and the provision of local services.

The Board is also available to help First Nation governments produce high-quality real property taxation by-laws by:

- providing model by-laws, administration guides and other information;
- conveying the results of reviews of individual by-laws; and,
- supporting liaison between First Nation governments and other jurisdictions involved in real property taxation activity.

The Board also develops policy, standards and principles to guide First Nations, and proposes appropriate regulations to govern taxation by-laws. In addition, the Board mediates and consults with parties affected by proposed by-laws, policies and regulations, and provides development programs for seminars and studies on real property taxation.

The Board meets quarterly, in March, June, September and December. Committees or panels meet on an ad hoc basis.

Analytic and logistical support to the Board is provided by the Indian Taxation Secretariat, which is also the centre for all departmental responsibilities concerning Indian taxation.

How to apply

To help speed up by-law approval, band councils are encouraged to correspond with the Indian Taxation Advisory Board as they are developing their by-laws. Councils can either write to the Board directly or contact their DIAND regional office. The address of the Indian Taxation Advisory Board is: Les Terrasses de la Chaudière, 10 Wellington Street, Hull, Quebec, K1A OH4.

Accessing Other Government Services

As citizens of Canada and residents of their respective provinces, Indians and Inuit are eligible for all federal, provincial/territorial and municipal government programs, services and other support measures available to other Canadians. DIAND encourages and supports Indian and Inuit initiatives to use these programs.

Individual entrepreneurs and communities wishing assistance in accessing any government programs should contact DIAND regional and district offices.

Industry Science and Technology Canada
Aboriginal Economic Programs (AEPs)

Aboriginal Business Development

How to apply for program assistance

Any aboriginal wishing to undertake a business project should simply contact the nearest Aboriginal Economic Programs office. The client describes his or her proposal and completes a "Statement of Intent" form. A file is opened on the project, but it is not yet considered an "application". The Aboriginal Economic Programs Office should always be contacted before a detailed business plan is prepared.

The needs assessment

The next step involves working with an Aboriginal Business Development Program officer to determine what is required to develop the business. The "needs assessment" can determine, for example, whether the client requires business management courses, hands-on experience or other training.

The business plan

In every case, the client must submit a business plan before the program will make any investment in a project. This business plan details the applicant's step-by-step course of action, and serves as the formal application for Aboriginal Business Development Program assistance.

Help is available if the client needs advice or financial assistance in preparing the plan. Indian and Inuit applicants also can also get advice from Indian or Inuit community-based economic development organizations (CEDOs), private business consultants and other business service organizations (i.e., Canadian Executive Services Overseas and the Federal Business Development Bank's Counselling Assistance for Small Enterprises).

Up to 75 percent of the consultants' cost is available to eligible aboriginal applicants from AEP to help prepare the business plan.

Equity requirements

Clients are required to prepare a well-balanced financial package combining client equity or personal investment, other sources of commercial financing, and lastly, government assistance.

It is important to note that AEP requires a minimum amount of investment equity from the client. Experience has shown that a project is more likely to succeed when the client has a substantial personal investment in the project.

AEP requires that the client contributes at least 10 percent of the project costs him or herself. This is separate from other forms of financing the client is able to arrange.

Of this minimum 10 percent, half must be in cash. The remainder can be in the form of assets, for example. However, in almost every case clients are expected to put in more than 10 percent for there to be a chance of success.

Indian or Inuit applicants will often need to secure financing from other sources such as a contribution from an Indian or Inuit economic development organization or a provincial support program; or a loan from an Aboriginal Capital Corporation (ACC), Business Development Centre (BDC) or conventional lending institution.

Program approval

Once the client has submitted a fully developed business plan to the local AEP office, a decision on the program's investment in the project should be made within 60 to 90 days. The length of time depends on the project's size and complexity.

Upon approval of program assistance, a letter of offer (contract) will be drawn up for the client to sign.

After a proposal has been positively assessed by an AEP officer (and by a DIAND officer, if DIAND's lending programs are required) it is taken to the appropriate Aboriginal Economic Development Board for consideration and recommendation.

Once a project is approved, CAED Strategy financing may consist of an ISTC repayable or non-repayable contribution, ISTC loan insurance, a DIAND loan guarantee or direct loan, or any combination of these, and possibly ACC or BDC financing.

Note: AEP financial assistance may also be available for business project after-care. This can cover up to 75 percent of the costs of follow-up assistance and/or training to improve the likelihood of the business succeeding. Aboriginal organizations wishing to establish a capital corporation should apply directly to the Aboriginal Capital Corporations Program in Ottawa, (613) 954-2599, or Winnipeg, (204) 983-5136.

Aboriginal Capital Corporations (ACCs)

If an Indian band, tribal council or larger group wishes to establish an Aboriginal Capital Corporation (ACC), they should be referred to the ACC Program in Winnipeg (204) 983-5136 or in Ottawa (613) 954-2599.

The process for establishing an ACC is complex as it involves creating a new, rather specialized institution. Applicants would work closely with ACC Program staff.

Key requirements for eligibility are:

- a market with a large enough loan demand over a multi-year period to justify a fund of $5-million or more, and large enough to support a self-sustaining institution. This means individual bands or tribal councils would generally not have the numbers to form an ACC, and would have to find other partners;
- a strong organizational design suitable for a commercial lending operation, that is at arms length from the political organization but has solid community support; and,
- a clientele that is not already serviced by existing ACCs.

Requirements for a loan guarantee operation are similar, but the organization need not be as large or as stringently structured.

The application process consists of three steps:

- a **Statement of Intent** setting out the plan in general, a global organizational design, the findings from a preliminary market survey and the particulars of the client group;
- a **Feasibility Study** that includes an in-depth market survey, detailed organizational design and ten-year financial projections that should demonstrate financial self-sufficiency (this study can be partly financed by the ACC Program); and,
- **Establishment and Capitalization of the ACC** (the Program provides capital as well as operating subsidies).

The government-ACC relationship is a long-term one. The program monitors the operations and financial performance of ACCs and provides advice and support.

Employment and Immigration Canada Programs

Skills Development

This component of the CAED Strategy aims to build management and vocational skills to be used for aboriginal businesses and employment in the labour force. This is accomplished by acquiring management training through community colleges or other training institutions. Financial assistance is available to develop management training courses for aboriginal people. Financial assistance may be available to aboriginal entrepreneurs who may need help in acquiring specific skills and adequate resources to start up an enterprise.

The people eligible for this kind of help are those who qualify for EIC labour market programming, particularly the Canadian Jobs Strategy program options. Interested persons should apply to their local Canada Employment Centre (CEC) where counsellors can help them determine the most suitable services. It is important that aboriginal people using CEC services identify themselves as aboriginal to ensure priority treatment.

In many parts of the country there are community-based outreach programs that can help refer aboriginal people to specific services offered by EIC. Interested persons should contact their local CEC office to find out whether there is an outreach program in their vicinity.

EIC-DIAND SAR Agreement

A source of income support for skills training is the EIC-DIAND Social Assistance Recipient (SAR) Agreement. Since 1986 the federal and provincial governments have undertaken joint initiatives to help social assistance recipients acquire the skills and work experience they need to become self-sufficient. In response to requests from Indian leaders that on-reserve Indians receiving social assistance be given the same opportunity, DIAND and EIC have negotiated the Social Assistance Recipient Agreement.

Under the agreement, reserve residents on social assistance who meet EIC eligibility criteria could use their social assistance funds, in combination with EIC training funds, to acquire skills needed to qualify for employment. This training could include literacy classes or other upgrading needed to qualify for skills training courses. Where possible, the training would be arranged and managed by Indian delivery agencies. Details of the SAR agreement are currently being worked out among DIAND, EIC and Indian communities.

See Volume III, Annex 10.

Urban Employment

Urban employment is a joint EIC/provincial effort in co-operation with municipalities and local aboriginal groups to meet the special training needs of unemployed and under-employed aboriginal people in urban areas.

This component of the CAED Strategy aims at substantially increasing the number of aboriginal people employed in urban centres over the next five years. It particularly emphasizes the training needs of unemployed and under-employed aboriginal people in urban areas. It will develop effective training and placement systems to help aboriginal people obtain jobs in mainstream urban economies.

EIC will work on this component with all its labour market partners: with employers to improve their training and placement systems, with aboriginal groups to develop local planning strategies, and with the provinces and municipalities. Local planning strategies will access, in a co-ordinated way, the full range of available employment and training programs such as the Canadian Jobs Strategy, provincial apprenticeship programs and any municipal programs.

Canadian Jobs Strategy (CJS)

EIC's financial support to CAEDS projects is offered under the Canadian Jobs Strategy, an existing national program to strengthen job opportunities and employment development for all Canadians. However, it is anticipated that the program may be modified in fiscal year 1991-92 to reflect current national priorities. CJS is presently designed to provide access to a number of training and employment opportunities that may help individuals in need of labour market adjustment services.

Under CJS, financing is available for a range of services for employment development and skills training under the following six programs:

Job Development subsidizes employers to train and give on-the-job experience to individuals who are long-term unemployed.

Job Entry assists co-ordinators with operating and training costs to provide on- and off-the-job training to those entering the workforce.

Skill Shortages provides training in skills that are in short supply.

Skill Investment assists people whose jobs are threatened due to technological or market change.

Innovations funds pilot projects aimed at creative solutions to labour market problems.

Community Futures assists communities in greatest need by subsidizing small business (employment) projects developed by the communities themselves.

Purchase of Training

The purchase of training option of CJS is one tool clients in need of classroom type training may access to further their employment and career goals. Purchase of training (POT) is divided into two delivery modes: Direct Purchase of Training (DPO) or Indirect Purchase of Training (IPO).

Clients generally access DPO through CECs. Once eligibility is determined, clients will review their career goals, previous training/educational experience, work history and other factors related to suitability for training with an employment counsellor at a CEC or outreach office.

If training is approved, the client will be referred to courses in an institutional setting subject to the client meeting the institution's entry criteria.

Course costs are paid for by the CEC and may include student fees, books and other supplementary allowances at a rate reflective of the client's personal situation. Clients receiving unemployment insurance benefits may be eligible to continue collecting benefits for the duration of the training course.

The types of training available under DPO vary from region to region based on specific labour market information.

Indirect Purchase of Training is similar to DPO except clients will be referred to training by a third party co-ordinating group or training co-ordinator. Approval of the institution for entrance into selected training courses and eligibility for allowances or the continuation of UI benefits is the same as for DPO.

Co-ordinators or co-ordinating groups play an intermediary role with the CEC in arranging and managing training purchases for clients. EIC provides resources to these third party agencies as a means of reaching particular clients who do not frequent CECs or when designated groups, including aboriginal people, are in need of specific training initiatives.

Co-ordinators or co-ordinating groups must submit a comprehensive course purchase training plan to EIC prior to arranging and managing course purchases. These plans must be approved by EIC and should reflect labour market shortage in the local/regional labour market.

The launching of the Pathways Strategy (Aboriginal Employment and Training Initiative) should result in an increase in IPO through aboriginal groups, organizations and communities.

Labour Force Development Strategy (LFDS)

The Labour Force Development Strategy was announced in April 1989. LFDS is a response to new workforce demands of the '90s for more highly skilled workers. One goal is to mobilize a national effort among business, government and educators to increase skill levels among Canadians.

The LFDS brought about significant changes in the way EIC does business with all client groups, including aboriginal people. A key element of LFDS is its reliance on local planning and co-operation with all stakeholders. Through consultations with EIC stakeholders, all of EIC's training and other labour market programs are being redesigned to work better for clients.

An important goal of LFDS is to design programs that will help remove barriers for a number of groups, including aboriginal people, who have not always had an equal chance to participate fully in the labour market.

The Aboriginal Employment and Training Working Group (AETWG), described in Chapter 2, has been brought together to address the special programming needs of aboriginal people. A summary of the AETWG work to date, *Pathways in Brief*, *Pathways to Success – Background Paper* and *Pathways to Success – Policy and Implementation Paper* are included as Annexes 11, 12 and 13 in Volume III.

The AETWG, together with EIC developed the five Pathways partnership principles:

- Consultation process and local control of decision making
- Delivery mechanisms
- Funding mechanisms and institutional development capacity
- Employment equity
- Eligibility for programs and services

(See Chapter 2 for a more detailed discussion of the Pathways partnership principles.)

Consultation Process and Local Control of Decision Making

The partnership must be solidified through the establishment of national, regional and local consultation/management boards to ensure that the needs and priorities of the aboriginal community are addressed and are reflected in the design, development and implementation of EIC policies that affect them.

Suggested approach

The model chosen will be negotiated and agreed upon by the partners and will be founded on aboriginal local-level decision-making. Further, the partners must consider a nationally consistent approach to the development and implementation of management boards. The approach must be flexible enough to accommodate the different and specific regional/local EIC and aboriginal circumstances.

This approach would ensure that joint management boards can effectively address the labour force/market priorities of local aboriginal communities. The preferred approach is a "bottom up" one, driven by local aboriginal communities and appropriate EIC structures. The model adopted should parallel EIC's organizational structure to make a joint management process easier to accomplish.

Local Management Boards (LMBs) mandate

The LMBs would establish training and employment priorities for their areas. They would apply established criteria and resources, and take into consideration the program and service objectives for local aboriginal labour force development and labour market needs.

The LMBs would have decision-making responsibilities and approve local aboriginal groups' training/employment/services proposals for their areas. They might also monitor and evaluate local aboriginal training and employment initiatives in conjunction with established aboriginal co-ordinating groups, Aboriginal Employment and Training Service Centres (AETSCs) or the CEC.

Regional Management Boards (RMBs) mandate

This body would be responsible for supporting and adapting regional aboriginal training and employment policy, and its application to the LMBs. It would provide a regional forum for discussion and possible adaption of policy that impacts on the effectiveness of programs/services for aboriginal groups. It would assist in determining regional budgetary allocations to the LMBs and might monitor and evaluate aboriginal training/employment initiatives regionally. The RMBs would also review training and employment initiatives that have regional implications.

National Management Board (NMB) mandate

This body would consider policy and program development as it may apply to aboriginal people. It would assist in determining regional aboriginal budgetary allocations, and might monitor and evaluate aboriginal program and training developments from a national perspective. The NMB would also examine and prioritize aboriginal program and training initiatives with potential national implications.

National Aboriginal Steering Committee (NASC)

This body would provide advisory direction to the NMB prior to its national meetings.

Delivery Mechanisms

Employment and training programs and services should be managed, operated, conducted and arranged through aboriginal infrastructures.

Suggested approach

The approach should separate the functions of counselling and service delivery from the brokering and purchasing of training. This, however, represents only one approach. It is expected that appropriate approaches will be adopted by the LMBs. The model must remain flexible to reflect local realities and resources.

For example, LMBs in some areas may use CECs to deliver the full range of services. Others may wish to combine the functions of co-ordinating groups with that of Aboriginal Employment and Training Service Centres (AETSCs). The service and counselling functions, along with referral, placement and follow-up could be separated or, where considered desirable, may be performed by the same organization.

Aboriginal Employment and Training Service Centre (AETSC) mandate

The AETSC would be responsible for participating in the LMB local planning, and for delivering a range of employment and training services as approved by the LMB. Training referrals would be directed through co-ordinating groups. (Where aboriginal outreach centres exist, it is expected that they will be absorbed as AETSCs where appropriate and with the consent of the local aboriginal community.)

Aboriginal Co-ordinating Groups mandate

Aboriginal co-ordinating groups would provide a link between the training purchased for individuals and the related skill needs of employers in the local labour market. This would be done under the direction of the LMB, and would consist of evaluating the training needs of their specific labour market, purchasing training in accordance with the skill needs identified and evaluating the effectiveness of the training purchased.

Funding Mechanisms and Institutional Development Capacity

A funding mechanism must be developed which recognizes the planning and operational needs of aboriginal delivery machinery, and reflects the level of need in aboriginal communities.

Suggested approach

The determination of an aboriginal national allocation should be within the terms of reference of the NMB and RMBs. It is anticipated that an enabling formula for distribution will occur with the concurrence of the NMB for the regions, and at the RMBs for the LMBs.

The following factors should provide the basis of a fair and equitable method of determining an amount for a national aboriginal allocation, and a process of distributing it to the regions. This process would also be used by the RMBs for the local boards.

EIC programming and service areas:

- historic EIC target participation rates and expenditures on aboriginal people;
- aboriginal working age population and levels of unemployment;
- percentage of aboriginal people in the national population;
- regional aboriginal population as a percentage of the total regional population; and,
- additional new resources that may become available.

An allocation formula will be developed to distribute the funds based on equality and need. The allocation formula would be subject to national fluctuations in EIC budgets, possible adjustments to the participation rate of aboriginal people in EIC programs and services, changes in the aboriginal working age population, levels of unemployment and labour force participation rate. If warranted, CEC/CJS operations centres could provide additional resources to aboriginal projects, or provide services based on local labour market needs. This should also apply to CECs for providing services to individual aboriginal clients.

Capacity Development

Some consideration must also be given to administrative capacity and support. RMBs may recommend operational budgets from the regional budget allocations. The LMB will be responsible for determining the budget allocations for AETSCs and co-ordinating groups.

The RMBs and NMB should have administrative support to help in policy development, monitoring and evaluation. In addition, consideration must be given to the development of the expertise of the joint management board members, AETSCs staff and co-ordinating group staff, and aboriginal sponsors.

Employment Equity

EIC must aggressively undertake pro-active measures to improve recruitment, training and employment of aboriginal people, both internally and externally to EIC.

Suggested approaches

To achieve labour market equity for aboriginal people, a number of approaches are needed. Responsibility and accountability to aboriginal communities is fundamental to all of them. Joint management boards will determine which delivery mechanisms will best serve aboriginal people, based on local and, possibly, regional priorities.

Vehicles for employment equity action

The most appropriate machinery for resolving employment equity problems in the general labour force are the aboriginal controlled and directed agencies. These organizations may be better positioned to determine where trained, labour market ready aboriginal people are within their communities. They can also identify what types of training is taking place to produce more aboriginal labour market entrants.

Review of internal EIC recruitment practices

An internal employment equity strategy should be developed to review annually EIC's hiring, and it should be examined by the regional and national management boards. Yearly, the boards would also review overall recruitment practices, policies and special aboriginal recruitment programs within EIC.

EIC, in co-operation with the Public Service Commission, may review the testing (ELOS) process in order to remove culturally discriminating barriers. EIC may also seek to establish an Aboriginal Advisory Board at Treasury Board to review aboriginal public sector hiring targets.

Appointments within EIC

Within EIC there are opportunities for aboriginal people, and these must be optimized. One method may be to designate term and indeterminate positions at all levels as "aboriginal preferred". Another option would be to designate positions under the Career Assignment Service or Management Orientation Program as "aboriginal preferred". This will allow aboriginal employees to compete for responsible positions within the public service.

Training positions within EIC

To attain the National Employment Equity representation goal, EIC operates the EIC Designated Group Retention and Development Program (DGRDP). The Native Internship Program (NIP) could be used to a much greater extent for ensuring more internal placement, and could also be used for external placements, particularly with aboriginal governments.

Annual Aboriginal Employment Equity Conference

An annual Aboriginal Employment Equity Conference would enable key equity players to exchange information on various equity initiatives and develop new approaches that would assist aboriginal people gain employment with a variety of employers.

Employer-based employment equity

In addition to existing equity legislation, incentives and benefits must be developed to motivate the public and private sectors to recruit and hire aboriginal employees. These incentives could include a human resource development program and tax breaks.

Eligibility for Programs and Services

The aboriginal delivery machinery must be given discretion to determine a person's eligibility for programs and services, and there must be a reliance on counselling for determining eligibility, rather that on strict criteria.

Eligibility and entitlement rules

Individual assessment must be the basis for determining eligibility, and this must be the individual's ability to meet the demands of the labour market, and the programs and services. Entitlement of aboriginal community-based projects would be made by the appropriate management board, in keeping with its labour market priorities, budget and the objectives of EIC programs and services.

Individual aboriginal client assessment

When relying more heavily on discretionary assessment rather than fixed criteria, the unique needs of the individual client must be considered. Cultural and community factors should be taken into account, along with appropriate selection and referral criteria. Counsellors should be trained to recognize all these factors.

Aboriginal sponsors assessment

The joint management process will be responsible for assessing and approving proposals. It is expected that this will occur through a variety of flexible approaches, particularly at the LMB level. Depending on local/regional approaches to the management boards, it is expected that CEC staff would review each proposal to ensure it meets program criteria. Project implementation and monitoring would be done by appropriate delivery staff in accordance with procedures established by the boards.

Removing the barriers to EIC programs

EIC is actively reviewing methods to resolve current barriers to aboriginal people, in order make it easier for them to access EIC programs for labour force and market development. It is important to note that program access to literacy and upgrading for aboriginal people remains critical. Because these programs are prerequisite training for skills development, current barriers must be removed as soon as possible.

Research and Advocacy — A Shared Responsibility

DIAND, ISTC and EIC all operate national research and advocacy programs under this component of the CAED Strategy. Program plans and activities are co-ordinated by the CAEDS Communications and Research and Advocacy Working Groups. These programs aim to promote aboriginal employment and business through:

- building government and private sector investment support;
- identifying and communicating good development ideas;
- working with aboriginal people to package assistance;
- increasing public awareness and information;
- soliciting and publicizing success stories;
- conducting research on the state of community economies;
- commercial development; and,
- resource development.

ISTC research and advocacy programs focus on business and financial institutions. Projects are proposed by aboriginal groups or individuals, or by Aboriginal Economic Programs staff. Project funding is decided by the national Aboriginal Economic Development Board.

Aboriginal employment and training issues are incorporated into EIC's broader corporate research and advocacy activities.

DIAND Advisory, Information and Advocacy Services

Providing information to communities

As a federal government department, DIAND either has or maintains access to information of potential value to Indian and Inuit communities and entrepreneurs, including reserve or band-specific information on minerals, forests, geography, demography, etc. It also provides information to communities (CEDOs) and Sectoral Development Institutions on government programs, opportunities, names/addresses and other sources of information. Advisory or "how-to" information can include videos, pamphlets, manuals, telephone-accessible computer systems and workshops.

DIAND staff are available to help Indian and Inuit communities improve the regulatory environment for their members by:

- providing information and advice on existing regulatory and resource access procedures;
- proposing improvements to policies, regulations and administrative procedures for which DIAND is directly responsible;
- informing other federal and provincial departments of Indian concerns or opportunities with regard to existing or proposed policies, programs, services, regulations and administrative procedures; and,
- funding Indian and Inuit initiatives such as research and data-gathering projects, and interventions at hearings, meetings and conferences addressing regulatory issues.

Communities seeking assistance in any of the areas described above should contact DIAND regional and district offices. Where appropriate, these offices will involve DIAND headquarters.

Advocacy and communication

DIAND's communications and advocacy activities are directed towards creating a supportive environment for Indian and Inuit community development activities.

It is every staff member's responsibility to "sell" CAEDS and promote aboriginal economic development opportunities as part of everyday business. District, regional and headquarters managers are expected to ensure regular, positive exposure of CAEDS and community successes through media releases, success story publications, presentations at conferences, ministerial and executive speeches, etc.

Organizations are targetted for special advocacy attention when significant impacts on Indian and Inuit economic activities could result (i.e., major project developers, employment equity employers, large public sector employers, forestry companies, etc.).

Regions and headquarters maintain regional and national communications and advocacy plans and events calendars which are regularly reviewed and updated at the management level.

Research and Advocacy Program and Program Development Planning

Purpose

The planning process identifies opportunities, establishes priorities, and determines the best means of supporting research, advocacy communications and program development projects.

Overview

As part of the Research and Advocacy component of CAEDS, and in its Program Development capacity, the Economic Development Sector undertakes and provides support to projects that establish or test new knowledge, concepts or activities which strengthen Indian and Inuit economic development.

The key focus of the planning process is to identify opportunities and establish priorities to support First Nations in taking advantage of these opportunities. This may be done through applying headquarters or regional staff or financial resources, seeking financial and other support from other departments and agencies, or seeking partnership arrangements with other agencies. A successful planning process will ensure the best possible use of the resources is applied to those projects which are most important to Indian and Inuit people.

National program financial resources are held and managed at headquarters. Resources are applied to achieve maximum benefit from the limited funds available.

Activities fall into three key areas:

Research activities include inquiry into all aspects of economic development in Indian and Inuit communities.

Advocacy activities are designed to create a supportive environment for Indian and Inuit economic development activities and to increase employment, commercial and resource development opportunities in the broader economy. Advocacy includes innovative communications projects where significant impacts on Indian and Inuit economic activities could result from targetted promotion or communications to specific organizations or opportunities, e.g., governments (re: resource management, legal, regulatory and fiscal frameworks), major resource companies, employment equity employers, and large public sector employers.

Program Development encompasses projects to establish national service delivery standards and assessment criteria, program operating procedures and methods, performance measures and data-bases relative to national sector programs, and to carry out economic and business analyses of DIAND programs and policies as required by the department's Executive Committee.

Note: This also includes activity management activities including fulfilling national legal, functional management and other ongoing commitments.

Roles and responsibilities

Headquarters manages the planning process by providing national direction, advice and support to regions, Indian and Inuit organizations and others in the area of research, advocacy communications and program development; and it undertakes research, advocacy, promotion, communications and program development projects and activities at a national level.

Headquarters, through the planning process, identifies opportunities to meet national priorities for research, advocacy communications, planning and development, and allocates headquarters staff and/or financial resources to projects with national applicability. It also plays a major role in promoting and marketing research, communications and project development opportunities/projects to other sources of funding and expertise (e.g., Social Sciences and Humanities Research Council).

An ongoing annual Research, Advocacy and Program Development Plan is maintained by the sector Policy and Co-ordination Branch. The plan includes work in progress, nationally or regionally within DIAND or elsewhere. The plan forms the basis for a semi-annual newsletter which provides a vehicle for the sharing of information, products and new approaches among interested parties.

Regions, in conjunction with regional First Nations advisory committees, and as part of their ongoing responsibilities, carry out research, advocacy and promotion activities at the regional level, including the development of regional advocacy and communications strategies and supporting tools and products. Regions assist Indian and Inuit organizations to develop research and advocacy strategies and identify project opportunities that may be eligible for assistance from DIAND or elsewhere.

Regions provide recommendations on projects that they consider to be appropriate for national financial, staff or promotional support. Regions also inform headquarters of projects and plans in the regions with respect to the Research Advocacy and Program Development Plan and inform First Nations of activities and projects underway at the national level.

First Nations may propose projects that have national applicability or significance.

How to apply for headquarters assistance

Where direct or indirect headquarters financial assistance, staff advice or support is sought, proposals should be consistent with the guidelines below. Project proposals may be submitted to the Director General, Policy Development at headquarters for review at any time.

Eligible recipients for Research and Advocacy and Program Development assistance

Headquarters and regional projects, Community Economic Development Organizations, Indian and Inuit individuals, businesses, organizations, and academic proponents. Eligible projects include those that support the achievement of **national** sector priorities.

Proposal Review

Proposal review process

Project proposals to access headquarters funding, staff or promotional assistance are reviewed by the appropriate regional director and headquarters program manager; comments are provided to the National Project Review Panel, which meets as required, at least twice annually.

The panel is chaired by the Director General, Policy and Co-ordination. The panel includes representatives from headquarters directorates and three regions.

The panel considers all proposals and makes appropriate recommendations to the Assistant Deputy Minister.

Project assessment criteria

To be eligible for headquarters assistance, project proposals should demonstrate the following:

- national or multi-region applicability;
- First Nations benefit, sponsorship or direction;
- include other actual or potential sources of funds or expertise from within DIAND (including capital, social assistance, etc.), or other federal or provincial ministries, academic and other organizations;
- direct or downstream impact on national sector priorities as a result of the proposal;
- be of a defined duration (assistance to ongoing activities is not eligible); and,

- willingness to share project information and results with other interested parties and to be included in project support announcements by the federal government.

Proposal details

Proposals should include information on:

- the project's relationship to national sector priorities;
- a description of the national research, advocacy or program development issue;
- how the project will address the issue;
- the direct and downstream regional and national benefits to accrue to sector programs and First Nations;
- the project management structure, timetable, costs;
- use of aboriginal researchers;
- First Nations support for the project outputs; and,
- other actual or potential sources of financial or other support.

National Priorities

Current priorities are focussed on advancing Indian and Inuit economic interests in the native agenda. Areas of particular interest include:

1. Resource Development

   - Support Indian initiatives to address legal and programming impediments respecting forestry and fisheries development.
   - Support the development of regional fisheries and forestry development strategies and co-management mechanisms, in conjunction with Indian sectoral institutions, Fisheries and Oceans, and ForCan.
   - Facilitate Indian and Inuit community economic development benefits from **major** resource developments, tourism and energy sectors.

2. Adult Basic Education

   - Assist Indian and Inuit communities to address their adult basic education needs.
   - Encourage mechanisms to enable communities/tribes/treaties/regions to develop co-ordinated plans for using post-secondary education, education, adult basic education, and EIC programming for adult education and skill development.

3. Workforce Participation

   - Establish regional public/private/Indian sector partnerships to create aboriginal recruitment co-ordinating mechanisms and local information networks to effectively link employer recruitment needs to qualified aboriginal individuals.

4. Increasing the Economic Impact of Other DIAND and Other Government Programs

   - Maximize long term business, employment and revenue benefits to communities from DIAND capital, housing and infrastructure programs.
   - Increase Indian and Inuit participation in and benefits from government procurement programs.

5. First Nations Tax, Public Finance, Legal Issues

   - Address fiscal and public financing issues for Indian and Inuit communities, including obtaining optimum benefit from Section 83 powers; developing alternative fiscal regimes, with the Department of Finance; and establishing comprehensive AFA-type financing arrangements with federal and provincial departments.

6. Developing Strategic Value-Added Models/Tools in Commercial Development, Community Socio-Economic Development, Tourism, and Forestry to Support Greater Indian Inuit Participation in the Economy

- Support to Indian and Inuit development capacity through the development of strategies, tools or models which would be useful to a large number of communities, and where high marginal returns can be demonstrated.

7. Developing Better Research Data and Analysis

- Enhance the understanding of how Indian community economies operate, the reliability of community economic data and the economic analysis capacity within the department and in communities.

8. Advocacy Communications

- Opportunity-based high impact projects that fit into a strategic approach to advocacy communications and promotion with key federal and provincial departments and industry leaders.

- Establish means to share information on successful approaches to economic development between First Nations communities.

The Canadian Aboriginal Economic Development Strategy Handbook For On-Reserve Services

VOLUME II

How We Deliver The CAED Strategy To Reserves:

A Regional Guide

Department of Indian Affairs and Northern Development

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How We Deliver The CAED Strategy To Reserves:

Introduction to the Regional Guide

This Volume provides information on structures, service delivery and partnerships within the DIAND regional offices, as well as an outline of provincial/territorial programs and services. Information received from the regional offices has been organized into the following structure:

Regional Organization and Staff Services

- Regional Structure, Objectives and Initiatives
- Staff Services

Regional CED Approach

Funding: Allocation, Arrangements and Requirements

- Allocation
- Arrangements and Requirements

Service: Delivery, Objectives and Client Requirements

- Delivery
- Objectives
- Client Requirements

Interdepartmental/Intergovernmental Partnership Mechanisms

Indian and Inuit Partnership Mechanisms

Provincial/Territorial Programs and Services

The Atlantic Region

Regional Organization and Staff Services

The Atlantic Regional Office of Indian and Northern Affairs Canada is centrally located in Amherst, N.S. Service is provided through this office to Indian, Inuit and Innu communities in all four Atlantic Provinces, i.e., Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland and Labrador.

For the purpose of delivering the CAEDS strategy, the Atlantic Region has developed a Socio-Economic Development Section.

This section has a Director, Administrative Support, a Direct Delivery Component (I.E.D.F. Loans), Service Delivery Component, Community Economic Development Organization (CEDOs).

Objective:

The region's objective is to assist CEDOs develop the capacity to provide a full range of Economic and Employment Development Services to their respective communities.

CEDOs are expected to work with their community to:

- identify and develop business opportunities and where required write business plans;
- plan, organize and implement specific business and employment projects; and,
- establish contact, communications, and liaison with various agencies oriented to employment and training.

Regional CED Approach

Funding: Allocation, Arrangements and Requirements

Allocation:

Funding is allocated to Community Economic Development Organization's (CEDOs) to enable them to fulfill the above objectives.

Atlantic Region currently has the following CEDO groupings:

- 10 unaffiliated organizations
- 4 tribal councils
- 4 sectoral or arts and crafts organizations

Funds are allocated on a formula basis (base amount plus a per capita share).

Arrangements and Requirements

Funding arrangements and corresponding cash flows are negotiated on the basis of each organization's operating plan. The plan must address the range of Economic Development services and programs available to the community, and have the support of Chief and Council.

Interdepartmental/Intergovernmental Partnership Mechanisms

Given the unique geographic and provincial breakdown of the region, the following is the communication pattern being used by the three CAEDS partners:

Regional Committee Meet Quarterly	EIC	Provincial Director of Programs	N.B. PEI NFLD NS
	ISTC	ABDP	Regional Director Halifax, N.S.
	DIAND	Socio-Economic Development	Regional Director Amherst, N.S.
Provincial Committee One for each Province Meet as required minimum quarterly	EIC	Manager Special Client Services Aboriginal Co-ordinator	
	ISTC	Regional Director or Designate	
	DIAND	Regional Director or Designate	

Local Committee for each CEC Area	EIC	Local Manager or Designate Aboriginal Co-ordinator
	ISTC	Designate
	DIAND	Senior Consultant for area

First Nations Participation

Presently two interim working committees have been formed to ensure First Nation participation.

A) Native Ad Hoc Committee on Community Economic Development Organizations Training Needs.

- Analysis has been completed on training needs.
- Short-term training plans have been finalized.
- Course contents finalized and tentative funding requests have been forwarded to EIC for financial support.

B) "ALL NATIVE CAEDS Working Committee"

- Interim committee formed.
- Terms of reference drafted.
- Presently Atlantic All Chiefs meeting to request sanction as official representatives to CAEDS Federal/Provincial Partners.

Provincial Programs and Services

Nova Scotia

Industry Development

- provides business counselling and advice to both prospective and existing operations
- tourism development — liaison and financial assistance
- hospitality industry training service to tourist operators

- training and inspection services
- architectural services
- planning and development
- federal/provincial co-operation agreement
- literature distributions
- audio-visuals
- marketing – research and development
- crafts production – advice and promotion

Nova Scotia Department of Tourism and Culture
P. O. Box 456
Halifax, Nova Scotia
B3J 2R5
(902) 424-3908

Industry, Trade, and Technology

- Business Advisory Services Branch
- Technical Services Branch
- Co-operative Development Branch
- Industrial Development
- Trade Expansion Program

Nova Scotia Department of Industry, Trades, & Technology
P. O. Box 519
Halifax, Nova Scotia
B3J 2R7
(902) 424-4102

Small Business Development

- *Consulting Assistance Program*
- *Entrepreneur Development Program*

- *Black Business Opportunity Program* (BBOP)
- *Rural Industry Program* (RIP)
- *Women's Entrepreneurial Development Program*
- *Disabled Entrepreneurs Assistance Program*
- *Management Development Program*

Head Office
Director
Nova Scotia of Small Business Development
World Trades Convention Centre
1800 Argyle St.
P. O. Box 519
Halifax, Nova Scotia
B3J 2R7
(902) 424-4243

Various Offices Within Province

Nova Scotia Business Capital Corporation

To encourage business development, including tourism and cultural industries, through financial assistance. Business with at least 50 employees and annual sales volume of at least $ 2 million may apply for assistance. Corporation is also involved in joint venture corporations and loans for businesses.

- Venture Capital – Resource development loans
- Nova Scotia Business Capital Corporation

Nova Scotia Department of Small Business Development
Suite 700
5151 George St.
Halifax, Nova Scotia
B3J 1M5
(902) 424-6801

Advanced Education and Job Training

Industrial Training

Administers the *Nova Scotia Training and Employment Program* (NSTEP). The program is able to train people in the skills of their industry for up to a five month period, sharing the costs with the Department of Vocational and Technical Training.

Industrial Training Division
Nova Scotia Department of Advanced Education and Training
P. O. Box 2086, Station M
Halifax, Nova Scotia
B3J 3B7
(902) 424-5636

Apprenticeship Training

Apprenticeship training courses are offered by the department through the Apprenticeship Training Division. These programs are long-term with On-The-Job-Training, as well as some institutional studies.

Apprenticeship Training Division
Nova Scotia Department of Advanced Education and Job Training
P. O. Box 2086, Station M
Halifax, Nova Scotia
B3J 3B7
(902) 424-5651

Prince Edward Island

Community Economic Development Program

This program will assist community organizations to establish financially viable enterprises that create jobs by offering interest rebated and by helping the community to locally finance the development capital. The program will also assist workers raise equity capital to invest in their own workers cooperative.

Craft Development Program

To create continuing jobs and increase income for crafts people across the province through Craft Development Projects.

- New Product Development

- Craft Training
- Craft Marketing

Department of Community and Cultural Affairs
Jones Building
P. O. Box 2000
Charlottetown, Prince Edward Island
C1A 7NB
(902) 368-4000

Department of Development

Various business support programs. Contact Charlottetown office or Regional Service Centres.

New Brunswick

Department of Advanced Education and Training

The Community Colleges in New Brunswick provide services to adults who want to advance their skills and abilities in order to access meaningful employment.

- Literacy (Native Literacy Co-ordinator – NBCC Miramichi)
- Academic Up-grading
- Pre-BTSD and BTSD (Basic Training for Skills Development)
- Apprenticeship Training and Occupational Certification
- Various trades and occupations

New Brunswick Department of Advanced Education and Training
P. O. Box 6000
Fredericton, New Brunswick
E3B 5H1
(506) 453-2597

Quebec Region

Regional Organization and Staff Services

Regional Structure, Objectives and Initiatives

In the Quebec Region, the Economic and Employment Development Program is divided into two main sectors: Economic Programs and Economic Orientation, Devolution and Agreements.

Economic Programs delivers direct services in the following sectors:

- Entrepreneurship;
- Direct and Insured Loans (where there is no Aboriginal Capital Corporation);
- Resource Access Negotiations.

In addition, Economic Programs plays a facilitator and broker role in the areas of business development, human resources, and renewable and non-renewable resources.

The Economic Orientation, Devolution and Agreements sector has a mandate to further the creation and development of Community Economic Development Organizations (CEDOs) or the regroupment of communities. These organizations assist in defining the economic orientation of their communities, establish adequate organizational structure for effective service delivery and report to their communities.

Staff Services

- direct and insured loans services;
- support and technical assistance services to the Resource Access Negotiations program;
- support and technical assistance to the Entrepreneurship program;
- support and technical assistance to bands, tribal councils and sectoral organizations to assist them in the provision of services.

Regional CED Approach

Funding: Allocation, Arrangements and Requirements

Allocation

The region's budget allocated to CEDOs is for Indian organizations, Inuit organizations and Indian sectoral institutions.

It is projected that during 1990-1991, the various native organizations will use 5 percent of their funds for planning, 30 percent for administration and 65 percent for economic development initiatives.

Arrangements and Requirements

Once regional officers receive a CEDO's operating plan, they evaluate its economic goals and the services provided, and apply performance indicators as the basis for negotiating an overall financial agreement.

The Economic Orientation, Devolution and Agreements sector has a mandate to further the creation and development of Community Economic Development Organizations (CEDOs) or the regroupment of communities. These organizations assist in defining the economic orientation of their communities, establish adequate organizational structure for effective service delivery and report to their communities.

Service: Delivery, Objectives and Client Requirements

Delivery

With the exception of Access to Resources, Business Development Initiatives and Direct and Insured Loans (where there is no Aboriginal Capital Corporation), the Quebec region no longer delivers any services direct to the client. Rather, the region emphasizes the creation and development of CEDOs.

Client Requirements

The businessperson must complete an application form, submit a business plan and all pertinent information, invest personally in his or her project, work together with an officer of his or her CEDO to obtain the necessary financing, and complete the follow-up reports required by investors.

The CEDO must submit a detailed plan of its operations, sign an overall financial agreement, and submit an annual report no later than 120 days after the end of its fiscal year.

Interdepartmental/Intergovernmental Partnership Mechanisms

In the Quebec region a tripartite committee composed of representatives of DIAND, ISTC and EIC, co-ordinate the implementation of the CAED Strategy.

The Canada-Quebec memorandum of understanding on aboriginal economic development has been extended to March 31, 1991 in order to implement the working groups' recommendations aimed at harmonizing the programs of the two levels of government, and facilitating native peoples' access to them.

Indian and Inuit Partnership Mechanisms

The Canada-Quebec memorandum of understanding on aboriginal economic development has been extended to March 31, 1991 in order to implement the working groups' recommendations aimed at harmonizing the programs of the two levels of governments, and facilitating native peoples' access to them.

Provincial Programs and Services

In 1984 Quebec signed the Canada-Quebec Regional Development Agreement, linking the federal and provincial governments in Quebec's economic development. This agreement resulted in 10 auxiliary agreements, and two memoranda of understanding, including one on aboriginal economic development. Signed in 1987, and implemented in 1988-1989 and 1989-1990, this memorandum aimed to improve native peoples' access to federal and provincial programs in the areas of employment and training, tourism, forestry, business development, mineral resources, commercial fisheries and agriculture.

The objectives set out in this memorandum of understanding are:

- to harmonize federal and provincial policies and programs relating to native development, and reduce duplication;
- to analyze the obstacles preventing status and non-status Indians, Inuit and Métis from participating in the economic life of Quebec, with a view to expanding this participation;
- to establish better means of fostering on a continuing basis, collaboration, consultation and joint planning among the parties involved; and,

- to consult native peoples or their representatives in elaborating any initiatives that touch on and relate to the present agreement.

During the first phase, working groups directed by the co-ordinating committee identified improvements to be made in the programs. The next phase aims to put these recommendations in place, making these programs more accessible, and involving native people as full members of the co-ordinating committee.

Since this memorandum of understanding brought together approximately 30 agencies and departments of the two levels of government, and since the comprehensive report has native support, it remains the main vehicle for involving the Government of Quebec in the CAED Strategy.

Ontario Region

Regional Organization and Staff Services

Regional Structure, Objectives and Initiatives

The Ontario Region comprises the regional office and four district offices – Southern, Sudbury, Western and Sioux Lookout – from which Economic Development Sector co-ordination and implementation take place.

The sector is directed from the regional office by the Director of Economic and Employment Development with the help of staff, including an Environmental analyst and three managers: the Manager Administration Planning and Data Base, the Manager District Services, and the Manager Economic and Institutional Development. In each district there are at least two staff, including a Superintendent of Economic Development.

The primary objective of the sector is to address the challenges of Indian economic development, thereby furthering the objectives of Indian self-government and economic self-reliance. This will be accomplished by encouraging business development and participation in the mainstream economy through the provision of opportunities to develop the capacity of the First Nations' financial, sectoral and business development institutions and initiatives.

The means by which this takes place include:

- a progressive relinquishing of control of sector resources and the transfer of decision making to Indian controlled mechanisms;
- providing, with the help of CAEDS partners, a unified federal government approach to economic and employment development; and,
- taking advantage of provincial, other federal, and private sector resources to the greatest extent possible.

Specific initiatives include:

- tripartite negotiations toward establishing an economic development Memorandum of Understanding between the Indian, federal and provincial governments;
- capacity building at the community, tribal council, association and regional levels within the Indian community;
- establishing DIAND's role and level of participation in sectoral development activities;

- focussing attention on potential resource development possibilities, hitherto unavailable to or unexploited by Ontario native people; and,

- research and advocacy initiatives, related to CAEDS implementation, achievement and shortfalls with the view to improving CAEDS outcomes, and devising ways and means of doing so.

Regional CED Approach

Funding: Allocation, Arrangements and Requirements

Allocation

Funding is targetted for sectoral organizations; community development support (CEDOs); affiliated First nations; unaffiliated First nations; Indian Community Resource Strategy (ICHRS); transitional project funding; and research and advocacy.

It is projected that the various organizations will use funding as follows: 45 percent in service delivery; 50 percent in flow-through funding and 5 percent in planning activities.

Arrangements and Requirements

Funding arrangements and corresponding cash flows are negotiated on the basis of each organization's operating plan which must address the range of economic development services and programs being made available to its membership. Arrangements to date include CFAs and AFAs ranging from one to five-year terms.

Service: Delivery, Objectives and Client Requirements

Delivery

At the service delivery level, staff from the Ontario Region and the four district offices work with First Nations on a consultative, advisory, advocacy and brokerage basis.

Objectives

Their objective is to help strengthen CEDOs' capacity for providing economic development and advisory services by helping to improve CEDO organizational structures and assisting their member communities in business and resource development.

CEDOs are expected to work with their membership by:

- helping identify and develop business opportunities and business plans;
- planning, organizing and implementing specific business employment or related projects; and,
- maintaining contact, communication and liaison with various agencies oriented to employment and training.

Client Requirements

The client will be expected to complete an application form, submit a business plan and related information and provide equity to the project. He/she will work with CEDO staff to meet the requirements of funding agencies and provide the follow-up reporting required.

Interdepartmental/Intergovernmental Partnership Mechanisms

In the Ontario Region a CAED Strategy Management Implementation Committee has been formed, composed of representatives of DIAND, ISTC's Aboriginal Economic Programs and EIC. This committee has overall responsibility for developing and co-ordinating interdepartmental and intergovernmental delivery of the strategy in the Ontario Region, providing direction and guidelines. It meets on a regular basis or as required. At present, the committee is focussing on the negotiation of a Memorandum of Understanding (MOU) between Canada, Ontario and First Nations.

Indian and Inuit Partnership Mechanisms

Negotiations with Ontario and the First Nations have not as yet resulted in a formal MOU. First Nations deal with the Ontario Native Affairs Directorate on policy matters and the various provincial line ministries and agencies on project matters.

Provincial Programs and Services

The Ontario provincial government offers various programs and services for which Indian economic development clients are eligible. These include:

Attorney General Office, Ontario Native Affairs Directorate

- develops and co-ordinates Ontario native affairs policy;
- co-ordinates access to other provincial programs and services; and,

- administers *Aboriginal Core Funding Program* to three provincial native organizations.

Ministry of Citizenship, Native Community Branch

- administers *Native Small Business Centres Program* funding toward the creation of small business centres and business parks;
- administers *Special Projects and Services Grants* funding toward small community/organizational development initiatives; and,
- administers *Futures* funding toward work experience program for native youth.

Ministry of Natural Resources

- administers *Freight Equalization Assistance Program* funding subsidies toward transportation costs of northern commercial fishermen;
- administers *Fisheries Industrial Development Program* facilitating commercial ventures through research;
- administers *Forest Management Agreements Program* which assists Ontario Indian Forestry Development Program; and,
- administers *Canada/Ontario Resource Development Agreement* which provides funding to status Indians for the use of renewable natural resources.

Ministry of Northern Development and Mines

- administers *Winter Roads Program*: funding toward the operation of a winter road system to reduce transportation costs of remote communities;
- administers *Municipal Economic Development Assistance Program* which provides funding to assist northern communities to get access to economic opportunities;
- administers *Remote Airport Development and Maintenance Program* providing for a system of public airports in remote communities;
- administers *Nor-Dev* providing economic assistance in northern communities in employment incentives, industrial infrastructure, resource diversification and tourism development; and,
- administers *Wild Rice Research Program* supporting the development of wild rice as commercial product.

Ministry of Transportation

- administers *Municipal Roads Program* providing subsidies for the construction, maintenance and improvement of public access roads in reserves and native communities.

Ministry of Skills Development

- administers *Ontario Job Strategy Program* providing funding toward innovative and special needs training.

Ministry of Industry, Trade and Technology

- administers *New Ventures Program* providing loans on a cash equity basis.

Ministry of Tourism and Recreation

- administers *Capital Construction Assistance Program for Northern Ontario* providing assistance toward the development of tourism and recreational attractions, public facilities and infrastructure.

Manitoba Region

Regional Organization and Staff Services

Mission Statement

"To provide professional economic services to Manitoba First Nations to enable their achievement of an improved quality of life."

Regional Structure, Objectives and Initiatives

The Economic Development Directorate in Manitoba works with tribal councils, unaffiliated First Nations, sectoral corporations and other Indian organizations for delivery of a comprehensive range of economic services to on-reserve residents.

The region provides capacity building assistance of these community based economic development organizations through professional advisory services, workshops, specialized training in community economic development techniques, roles and responsibilities of board of directors, negotiating skills and training for trainers.

In the spirit of Indian control of the process, consultation will continue with the chiefs of Manitoba's first nations to develop a long-term strategy on economic development services. This will result in a more influential role for Indian leadership in the delivery of economic development services to their members.

Staff Services

Services are provided in the following program areas:

Community Economic Development

This unit provides financial and advisory support to Community Economic Development Organizations (CEDOs) at the band and tribal level. Major activities include assisting CEDOs in organizational development, capacity building, and levering funds from other sources.

Sectoral Economic Development

Financial and advisory support is provided to sectors that at present are not addressed by CEDOs. The major areas of activity being agriculture, aquaculture, fishing, and wild life management.

Resource Development and Management

DIAND in co-operation with ISTC and EIC, plays an advocacy role in the management of renewable resources and the management and exploitation of non renewable resources.

Commercial Development

This unit provides advocacy, brokerage, and advisory expertise to Indian entrepreneurs, Indian communities, and special projects. **As a lender of last resort** the unit provides direct loans in areas of the province not serviced by an existing Aboriginal Capital Corporation (ACC). The unit provides loan guarantees as required to on-reserve projects.

At the present time the Manitoba Indian Agricultural Development Corporation is the only ACC operating in the province. Development work is presently underway to establish additional ACC's to eventually replace the IEDF loan program.

Resource Access Negotiations

Act as a broker between Indian governments and organizations offering joint venture opportunities for developing natural resources on and adjacent to Indian lands.

Act as a broker between Indian governments and the provincial government in the negotiation and co-management of resources on and adjacent to Indian lands.

Research and Advocacy

The aim is to influence national policy, program design, and develop positive relations with investment, business, government communities, and First Nations organizations.

Regional CED Approach

Funding Allocation and Arrangements

Allocation

There are seventeen community economic development organizations (CEDOs) and one sectoral institution in the province of Manitoba. Seven tribal organizations represent 50 Manitoba First Nations and ten CEDOs are individually band owned and operated entities.

Funding provided to CEDOs is based on "one" service delivery unit for each 700 on-reserve population, with a minimum base allocation per band and the balance distributed on an "on-reserve per capita" basis. The CEDOs use approximately 45 percent of these funds for delivery of services and 55 percent for flow-through purposes.

Arrangements and Requirements

The type of arrangement and flow of cash are based on the CEDO's required operational need. These include multi-year Alternative Funding Arrangements, single-year inclusion in the organization's "Comprehensive Funding Arrangement" or a separate "Flexible Transfer Payment" arrangement. **A complete Operational Plan is a prerequisite for a CEDO wishing to enter any of these arrangements.**

Service: Delivery, Objectives and Client Requirements

Delivery

Regional management and staff work with the CEDOs as the primary client on community based economic planning and development. Advisory services are also provided on major projects, renewable and non renewable resources and to Indian owned and controlled sectoral organizations.

Objectives

DIAND's regional officers concentrate mainly on transferring skills to CEDO staff, assisting in organizational development, strengthening CEDOs' capacity for delivering advisory services, and helping them to develop long-term operating plans.

Client Requirements

In the context of the DIAND components of the CAED Strategy, the CEDO is the client. The tribal, sectoral or band CEDO is expected to establish priorities for its economic development program and service delivery, in consultation with its membership, and provide DIAND with an outline of proposed activities in the form of an **operating plan**. Once funding is approved, the CEDO is responsible for managing and administering the programs, and also provides advisory services to individual clients.

There are common themes representative of the respective objectives of the CEDOs. These include:

- comprehensive community based economic planning
- to develop a viable business community
- to create jobs for the local labour market; and,
- to develop entrepreneurial skills and knowledge within the communities.

Generally, these objectives are developed in pursuit of higher level goals such as:

- to decrease the dependency of the community on transfer payments;
- to maximize the self-sufficiency of the community; and,
- to contribute to the social and economic well-being of the community.

Interdepartmental/Intergovernmental Partnership Mechanisms

A regional CAED Strategy Committee with membership from the three federal departments, DIAND, ISTC and EIC was established in July 1990. The purpose of the committee is to share program information, to identify major projects for program co-ordination, and to co-ordinate program delivery and application with respect to major projects.

A working sub-group of the regional committee has been established to co-ordinate program delivery and application with respect to the construction of a hydro land-line distribution network in Northeastern Manitoba.

A formal memorandum of understanding with the provincial government has not been established to date. Informal relationships have, however, been established with respect to the hydro land-line construction project.

Relationships with individual provincial departments are being maintained. These relationships usually focus on a specific project; e.g. wild-life management, fisheries, agriculture, tourism, etc

Indian and Inuit Partnership Mechanisms

Discussions with the First Nations associations were initiated during the 1989-90 fiscal year with the intended purpose of developing a mechanism for First Nations participation in the management of the regional economic development program. The region is intending to step-up these discussions with the objective of having such a mechanism in place by April 1991. It is expected that the partnership with the First Nations will also pursue the development of national policy recommendations. This is an exciting and challenging initiative for both DIAND and the First Nations.

Provincial Programs and Services

The Manitoba government maintains and offers a wide range of services and programs through various departments and agencies for the development of the provincial economy. Some of these include the following, to which Indian economic development clients are eligible to apply:

Manitoba Farm Credit Corporation

Financial aid to farmers through:

- *Farm Credit Programs*
- *Rebate Program*
- Direct loans

Manitoba Agriculture

- *Northern Horticulture Program*
- *4-H and Youth Programs*

Manitoba Culture, Heritage and Recreation

- *Community Cultural Council Grant*
- consultative services
- Indian Cultural Education Centres
- *Sports and Recreational Assistance* (equipment grants, recreation grants, regional sports association grants, and construction of recreational facilities)

Manitoba Northern Affairs

- *Community Places Program* – assistance for capital projects, projects creating long-term benefits contributing to quality of life, as well as generating immediate employment

Manitoba Marketing Network

- marketing advice to small- and medium-sized businesses

Manitoba Co-operative Promotion Board

- assists with the development, education and promotion of co-operatives in Manitoba
- provides loans and loan guarantees

Manitoba Agriculture Credit Corporation (Fishermen's Loans Section)

- assistance in establishing, developing, and operating fishing businesses

Manitoba Travel/Development

- tourism development consulting services in various areas

Manitoba Industry, Trade and Tourism

- management development, marketing advice, and training
- Business Resource Centre (information on government programs)

Manitoba Department of Education

- special university assistance for natives, northerners and low-income groups (various professions)
- management of community economic and organization development
- career opportunities for natives
- upgrading, trades, apprenticeship skill development and training assistance
- *Access North* – The Pas program (certificate program in various construction trades)

Manitoba Department of Labour

- apprenticeship training

Manitoba Employment and Economic Security

- *Selkirk Training Plan Program* (on-the-job training in woodwork and metalwork skills)
- *Northern Employment Support Services*

- *Manitoba Youth Job Centre Program*
- *Student Temporary Employment Program in Government*
- *Northern Relocation Program*
- *Career Start Program*
- *Northern Youth Core Program*

Saskatchewan Region

Regional Organization and Staff Services

Regional Structure Objectives and Initiatives

The Economic Development Directorate in Saskatchewan administers its programs from a regional office in Regina and district offices located in Meadow Lake, Prince Albert and Fort Qu'Appelle.

The region is working with tribal councils, sectoral corporations, unaffiliated bands and other Indian organizations to provide advisory and financial assistance, conduct research, and promote Indian economic activity to public and private sector agencies. The region helps build local capacity for managing economic development and putting more Indian community residents into the business and wage economies. Funding assists local Indian governments to set up Community Economic Development Organizations (CEDOs). Development and delivery of training to staff who deliver economic development programs at the CEDO level are ongoing, including Board of Director training, negotiating skills, and training for trainers. Networks establishment with other federal and provincial departments and the private sector continue in order to enhance their participation in Indian Economic Development.

Staff Services

Staff services are provided in the following areas:

Community Economic Development services support Indian government initiatives for expanding business and employment opportunities in Indian communities. The division provides assistance in developing operating plans, ensuring funding is in place, monitoring progress and arranging training and development.

Commercial Development division provides advocacy, brokerage, and advisory expertise to Indian businesses and communities. In the loans and guarantees area the region is negotiating the sale of the part of the portfolio to an Indian controlled loan company and disposing of the balance of the loans. The region will continue its residual role in the loan guarantee areas for status Indian business interests on-reserve (Section 89 of the *Indian Act*).

Resource Access Negotiations operate as a broker between Indian governments and organizations offering joint venture opportunities for developing natural resources on Indian lands, and to contract with provinces and private sector developers to develop and manage resources on Crown lands.

Research and Advocacy services provide training tools for Indian organizations, provide access to research information on projects, assist with follow-up and assess government policy to better suit economic potential.

Regional CED Approach

Funding: Allocation, Arrangements and Requirements

Allocation

Funding in the Saskatchewan Region is targetted for sectoral organizations, tribal councils/CEDOs unaffiliated bands.

It is projected that the various organizations will use 50 percent of their funding in service delivery, 49 percent in flow-through funding and 1 percent in planning activities.

Arrangements and Requirements

Funding arrangements and corresponding cash flows are negotiated based on each organization's operating plan which addresses the range of economic development services and programs for its members. Arrangements to date include both CFAs and AFAs ranging from one to five-year terms.

Service: Delivery, Objectives and Client Requirements

Delivery

At the actual service level, three Saskatchewan districts and the regional staff deal with the Indian community on organization development, major projects and resource development.

Objectives

In most cases the staff of CEDOs will deal with their client members and be expected to:

- help identify and develop business opportunities and business plans;
- plan, organize and implement specific business employment or related projects; and,
- maintain contact with various programs oriented to employment and training and play a lead role in communicating and liaising with these agencies.

Client Requirements

The client will be expected to complete an application form, submit a business plan and related information, as well as provide equity to the project. He or she will then work with a CEDO officer to meet the requirements of funding agencies, and provide any follow-up reporting required.

Interdepartmental/Intergovernmental Partnership Mechanisms

In the Saskatchewan Region a CAED Strategy Management Committee has been formed, composed of members of DIAND, EIC and ISTC's Aboriginal Economic Programs. This committee has overall responsibility for ensuring a co-ordinated interdepartmental and intergovernmental delivery of the CAED Strategy in the region. It meets quarterly, or more often as required, and will provide direction and guidelines regarding regional operational co-ordination to the departments involved.

Indian and Inuit Partnership Mechanisms

The development of a partnership with the Government of Saskatchewan under the CAED Strategy has not yet been formalized.

The various Indian organizations and clients deal with the appropriate provincial departments and agencies on a project-by-project basis.

Provincial Programs and Services

The Saskatchewan government maintains and offers a wide range of services and programs through various departments and agencies, aimed at developing the provincial economy. These include the following, for which Indian economic development clients are eligible to apply:

Saskatchewan Indian and Native Affairs Secretariat

- administers an *Indian Economic Development Fund* in the form of grants
- provides and co-ordinates access to other provincial departments.

Saskatchewan Economic Diversification and Trade has available:

- Business Resource Centres
- Incentive Programs

- *Venture Capital Program*
- Marketing and Research Programs
- *Northern Saskatchewan Revolving Fund*
- *Business Immigration Program*
- *Tourism Program*.

Saskatchewan Economic Development Corporation (SEDCO)

- provides financing options (i.e., Operating, Working Capital Loans, Guarantees, Lease/Purchase).

Saskatchewan Rural Development has available:

- Community Planning and Development Services
- Agricultural Extension Services
- Rural Service Centres.

Saskatchewan Human Resources, Labour and Development administers:

- Labour Relations, Regulations and Standards
- Occupational Health and Safety
- *Opportunities Program*.

Saskatchewan Agricultural Credit Corporation administers:

- *Agricultural Loan Program*.

Saskatchewan Parks and Renewable Resources administers:

- hunting and trapping regulations.

Saskatchewan Power Northern Enterprise Fund administers:

- funding for economic development education and training in the north.

Alberta Region

Regional CED Approach

Funding: Allocation, Arrangements and Requirements

Allocation

In the Alberta region, funding is provided for Operations and Maintenance, Alberta Indian Agricultural Development Corporation, Alberta Indian Investment Corp., arts and crafts, Athabasca Native Development Corp., special initiatives, tribal councils and unaffiliated bands.

The formula used in establishing the total economic development funding is based on on-reserve population for both "service delivery units" and "flow-through" funding as follows:

SERVICE DELIVERY UNITS (1 unit = $):

ON-RESERVE POPULATION	NO. OF UNITS
1 - 699	1
700 - 1699	2
1700 - 2699	3
2700 - 3699	4
4700 and over	5

FLOW-THROUGH FUNDING:

On-reserve population X $

Arrangements and Requirements

Alberta bands sign Alternate Funding Arrangements or Comprehensive Agreements with the Alberta region in which the total amount of each program's dollars is identified. Economic Development dollars are identified by a funding formula.

Once budgets have been determined by the Funding Formula (previously provided) for individual bands, the region's CEDO advisor to the bands meets with chief and council to discuss the minimum requirements, and the choices available to the band under the DIAND Economic Development Funding Guidelines. The band then informs the region of its minimum requirements and chosen economic development activities through a document known as a community action plan (CAP). DIAND's Economic Development CAP Committee reviews this plan, which includes a 12-month cash flow correlating cash requirements to activities planned. Once the CAP is approved, the region's Comprehensive Agreement Co-ordinating Section is directed to disburse funds in accordance with the cash flow approved in the CAP.

The Alberta Region Committee consisted of three members of the Economic Development Program, who reviewed the Community Action Plans from the tribal councils and unaffiliated bands. Provided the requirements are addressed, the plan is approved.

Service: Delivery, Objectives and Client Requirements

Delivery

At the service delivery level, tribal councils and the regional CEDO advisors deal with the Indian communities, in relation to business opportunities, monitoring Community Action Plans, leveraging of funding and employment and training opportunities.

Client Requirements

The client is expected to complete a Business Plan and/or application for employment subsidies and training funds.

Interdepartmental/Intergovernmental Partnership Mechanisms

In Alberta a partnership with the province has not established in relation to the CAED Strategy.

Provincial Programs and Services

Although the Alberta government offers only limited services and programs to native clientele, several provincially-funded agencies provide a range of services. These include:

Alberta Municipal Affairs

Improvement District and Native Services Division

- grants for projects engaged in resource development

Alberta Career Development

- wage subsidies grants

Alberta Gaming Commission

- hunting and trapping regulations

Department of Environment

- environmental issues

Federal and Intergovernmental Affairs

- liaison for provincial/federal relations — native issues

Forestry, Lands and Wildlife

- issue of permits — logging and wildlife regulations

Native Venture Capital Fund

- loans and advice

Canada/Alberta Northern Development Agreement

- loans and grants

Athabasca Native Development Corporation

- services — environment and projects

British Columbia Region

Regional Organization and Staff Services

Regional Structure, Objectives and Initiatives

The Economic Development Program is structured into three basic units:

Community Economic Development, this unit provides financial and advisory support to Community Economic Development Organizations (CEDOs) at the band and tribal level. Major activities include assisting CEDOs in organizational development, capacity building, and levering funds from other sources.

Direct Services and Resource Development, this unit manages the on-reserve Loan Guarantee and Direct Loan programs, works with Aboriginal Capital Corporations to transfer administration of direct loans, and provides advisory assistance to bands, tribal councils and sectoral institutions in the areas of fisheries, forestry, tourism and minerals.

Planning, Analysis, and Administration, this unit carries out all the internal planning, data-base, and administrative functions.

The overall objective of the program is to transfer responsibility for economic development services to Community Economic Development Organizations.

To meet this objective, DIAND staff work in partnership with CEDOs to define goals, and to carry out activities to achieve those goals.

Some specific initiatives include:

- Establishment of a First Nations Management Committee to assist the Director of Economic development in establishing policy direction, strategic plans, and resource allocation models;
- Workshops on CAEDS in five locations throughout B.C. Region, to encourage the development of "networks" among CEDOs;
- Joint training initiatives, in partnership with CEDOs;
- Staff exchange pilot program, between DIAND and CEDOs;

- Client organized conferences and workshops providing networking and professional development opportunities:
  - – Ethic in Education, a Native Natural Resource Management Education project
  - – Food Pacific '90
  - – Opportunities in Forest and related industries
  - – Cultural Business Workshop;
- Regional CAEDS Workshop, to exchange information and improve networking among CEDOs, sectoral institutions, aboriginal capital corporations, government, and the private sector; and,
- Devolution of existing loans to aboriginal capital corporations.

Staff Services

Regional staff provide services to CEDOs and CEDO staff in the following areas:

- Planning;
- Organizational development;
- Capacity building and professional development;
- Specific assistance and training to Economic Development Officers including business plan analysis, economic and business planning, human resource development, and other related training;
- Leveraging funds from other sources;
- Evaluating progress towards objectives;
- Working with the private sector; and,
- Resource development: major projects in forestry, fisheries, minerals and tourism.

Some services are also provided to both CEDOs and individual communities in the following areas:

- Loan Guarantees;
- Information on sources of direct lending assistance from Aboriginal Capital Corporations and other financial lending institutions;
- Resource Access Negotiations;

- Consulting assistance from staff experts in forestry, fisheries, minerals and tourism; and
- Networking with all levels of government and the private sector.

Regional CED Approach

Funding: Allocation, Arrangements and Requirements

Allocation

In the B.C. Region, 90 percent of the economic development program budget has been targetted to tribal and band-based Community Economic Development Organizations. In addition, 10 percent is directed towards sectoral institutions in the areas of forestry, agriculture, fisheries, and arts and crafts.

It is projected that the various types of CEDOs will use 40 percent of their funding in service delivery and overhead, and 60 percent in flow-through funding for specific projects.

Arrangements and Requirements

Funding arrangements are negotiated based on each CEDO's operating plan, which addresses the range of economic and employment development services to be offered to the organization's membership. Funding arrangements can be through CFAs and AFAs, with a multi-year option.

Service: Delivery, Objectives and Client Requirements

Delivery

In the B.C. Region, regional field staff work with the CEDO as the primary client.

Technical and advisory assistance to the CEDO's membership is provided by CEDO staff.

Technical assistance in specific resource sectors and lending programs is also available directly from the regional office.

Objectives

In keeping with DIAND's program devolution objectives, field staff concentrate mainly on transferring skills to CEDO staff, assisting in organizational development, strengthening CEDOs' capacity for delivering advisory services, and helping them develop multi-year operating plans.

Client Requirements

In the context of the DIAND components of the CAED Strategy, the CEDO is the client. The tribal, sectoral or band CEDO is expected to establish priorities for its economic development program and service delivery, in consultation with its membership, and provide DIAND with an outline of proposed activities in the form of an operating plan. Once funding is approved, the CEDO is responsible for managing and administering the programs, and also provides advisory services to individual clients.

Indian and Inuit Partnership Mechanisms

In the B.C. Region, a partnership approach to the CAED Strategy implementation has been developed with other government departments and First Nations (see chart). The First Nations Economic Development Committee acts as an advisory board to the department, and plays a decision-making role in some areas of programm allocation. A member of this Committee participates on the DIAND/EIC/ISTC Regional Steering Committee, which has been established to ensure a co-ordinated approach to delivery of the CAED Strategy.

An informal "networking" relationship exists with the provincial government, with formal agreements in certain specific areas of sectoral development (DIAND), employment and training (EIC), etc. A number of informal working committees involving DIAND, First Nations and the province have been dealing with specific projects and issues in forestry, mining and wildlife management sectors.

Provincial Programs and Services

The British Columbia government offers a wide range of services and programs, aimed at development of the provincial economy. Aboriginal people and organizations can make application to these programs which include the following:

Ministry of Native Affairs has available:

- *First Citizens Loan Program* for business start-up and expansion
- Post-loan advisory services
- First Citizens bursaries for post-secondary students
- Grants to Friendship Centres
- Transportation costs for Elders to attend cultural or educational workshops.

Ministry of Regional and Economic Development has available:

- *Small Business Incentive Program*
- *Industrial Diversification Program*
- *Regional Seed Capital Program*
- Resource Industry Value-Focus on forest products sector
- *Small Business Venture Capital Program*
- Tourism: Product Development
- Venture Net Matching Services
- Training and Management Development — Assistance to Associations Program
- *Business Information Centre Program.*

B.C. Chamber of Commerce has available:

- Canada Opportunities Investment Network: Start-up financing information.

Ministry of Advanced Education and Training

- *Training Opportunities Program*
- *Training Program for Disabled Persons*
- *Training Investment Program*
- *Student Venture Loan Program.*

Ministry of Energy, Mines and Petroleum Resources

- Mine Development
- *Mineral Exploration Program*
- *Mineral Opportunities Program.*

Ministry of Forests — District Offices

- *Small Business Forest Enterprise Program.*

Ministry of Social Services and Housing

- *Employment Opportunity Program — Employment Plus.*

B.C. Trade Development Corporation

- *New Exporters to Border States* (NEBS)
- B.C. Business Network.

Ministry of Tourism and Provincial Secretary

- *Tourism Industry Support Program.*

Ministry of Agriculture and Fisheries

- *Food Industry Development Program.*

B.C. Purchasing Commission

- Public Sector Purchasing Policy.

Northwest Territories Region

Regional Organization and Staff Services

Regional Structure, Objectives and Initiatives

There is only one reserve in the N.W.T. Region. DIAND works specifically with the Indian and Inuit communities assisting with community, employment and resource development. ISTC's primary responsibility is business development and the department services the Western Arctic from Yellowknife and the Eastern Arctic from Montreal, Quebec. EIC has seven employment centres across the N.W.T. and is responsible for employment development. DIAND works with individuals, businesses, communities and sectoral training institutions.

Discussions are currently underway for the establishment of an advisory committee on CAEDS implementation, which would include CEDOs, by the end of fiscal year 1990-1991.

Indian and Inuit Affairs staff are dealing directly with both communities and businesspersons while CEDOs are becoming operational.

The issues of prime concern to both regional staff and CEDOs are:

- Joint capacity building;
- Strategic and operational planning;
- Training and skills development;
- Networking and communications;
- Understanding of the CAED Strategy by all parties;
- Understanding of role change;
- Community consultation process; and
- Staffing of CEDOs.

Staff Services

In the N.W.T. Region, the Director has over-all responsibility for the regional sectors' operations, including planning, programming, personnel and financial management. The Economic Development Clerk is responsible for clerical and administration aspects of regional operations. The Regional Programs Manager is the lead officer for strategic planning, policy development, employment and training, and the co-ordination of programs, administration and communications.

There are three area managers: the Area Manager for the South is the lead officer for service delivery to the South Slave, Deh Cho and North Slave sub-regions and co-ordination of commercial development; the Area Manager for the North is the lead officer for service delivery to the Sahtu, Mackenzie/Delta and Inuvialuit sub-regions, and co-ordination of resource development; the Area Manager for the East is the lead officer for service delivery to Kitikmeot, Keewatin and Baffin sub-regions, N.W.T. Inuit institutions, and co-ordination of all regional Inuit related matters.

Regional CED Approach

Funding: Allocation, Arrangements and Requirements

Allocation

Funding is targetted for sectoral organizations, community economic and employment development activities (CEDOs) and Indian Community Human Resource Strategy (ICHRS).

It is projected that the various organizations will use funding as follows: 50 percent in service delivery; 25 percent in flow-through funding; and 25 percent for planning and organizational development.

Arrangements and Requirements

Funding arrangements and corresponding cash flows are negotiated on the basis of each organization's operating plan, which must address the range of economic development services and programs being made available to its membership. All funding has been arranged through annual Flexible Transfer Payments (FTPs).

Service: Delivery, Objectives and Client Requirements

Delivery

At the service delivery level, staff from the NWT Region work with First nations on a consultative, advisory, advocacy and brokerage basis.

From a policy perspective, DIAND is the lead department for community development in that it is responsible for helping Indian and Inuit development institutions improve their service capacity and expertise. From an operational viewpoint, the N.W.T. region is assisting Indian and Inuit communities to establish CEDOs and build the capacity to provide their own economic services.

From a policy perspective, DIAND is responsible for providing resource management services to communities in the N.W.T. In the N.W.T. region, this residual role focusses on resource management support to individual and groups of communities, implementation of the RAN program, participation in and implementation of the national resource sector strategy and support to sectoral institutions.

In the N.W.T., DIAND's residual responsibilities are to work with communities and build capacity to deliver economic and employment services; to help all parties understand the CAED Strategy and the implications of the role changes; to share information and to co-operate with CAED Strategy partners in implementing the strategy.

Objectives

The objective is to help develop and strengthen CEDOs capacity for delivering economic development advisory services, as well as CEDOs organizational structure and their member communities' business and resource development. Emphasis should be placed on overcoming the gaps and shortcomings of services available from the Government of the NWT, and the programs of other agencies.

DIAND delivery officers are expected to provide the following:

- Effective working relationship with community organization;
- Information sharing;
- Sensitivity to regional disparities;
- Technical and management information to support the creation of CEDOs who can provide economic and employment services to their constituents; and,
- Monitoring and evaluation of performance.

The client (CEDO) is expected to:

- Build and strengthen their capacity to deliver advisory, economic and employment services;
- Deliver a quality service;
- Define appropriate indicators to satisfy constituents;
- Understand role change; and,
- Undertake comprehensive CEDO staff training and Board of Directors training.

CEDOs are expected to work with their memberships by:

- helping identify and develop business opportunities and business plans;
- planning, organizing and implementing specific business, employment or related projects; and,
- maintaining contact, communication and liaison with various agencies oriented to business development, employment and training.

Client Requirements

The client will be expected to complete an application form, submit a business plan and related information, and provide equity to the project. He/she will work with CEDO staff to meet the requirements of funding agencies and provide the follow-up reporting required.

Interdepartmental/Intergovernmental Partnership Mechanisms

Co-ordination and co-operation between key governments and departments is very important to CAEDS implementation in the N.W.T. Currently, liaison occurs on a project or issue specific basis. Discussion on the development of more formal mechanisms is ongoing, however, more time is needed in order to clarify appropriate processes, given the unique operational characteristics and environment existent in the N.W.T.

The N.W.T. Region involves the territorial government in the CAED Strategy partnership through a process of consultation when the need arises.

Indian and Inuit Partnership Mechanisms

Preliminary discussion is occurring with the aim of clarifying appropriate mechanisms for Indian and Inuit partnership relationships. However, for this process and resulting arrangements to be meaningful, they must incorporate the full involvement of specific Dene and Inuit interests. More time is required for CAEDS implementation and CEDOs to mature in order that this can occur. Currently, direct Dene and Inuit involvement is sought, to the extent, possible, in all regionally based initiatives and decisions. More formalized arrangements are targetted for fiscal 1991-1992.

Territorial Programs and Services

The N.W.T. Government's grants, loans and contribution programs available by sector are:

General Program for Business:

- Business development financial assistance
- Small business grants
- Venture capital
- Trade show assistance.

Renewable Resource Businesses:

- *Commercial Fishery Assistance* (offsetting high freight or production costs)
- *Forest Industry Assistance* (reduced road construction costs, access to lumber supplies, carrying costs of inventories of log or lumber)
- *Renewable Resource Business Enhancement.*

Arts and Crafts Businesses:

- *Carving Stone Supply Assistance*
- *Arts and Crafts Development Assistance* (production and promotion of arts and crafts-related activities).

Tourism Development:

- *Tourism Management Development Contribution Program* (off-setting the cost of upgrading management skills)
- *Tourism Cultural Attraction Contribution Program*
- *Tourism Product Development Contribution Program*
- *Tourism Support Contribution Program* (funding zone associations to enable them to deliver tourism support programs within their respective zones)
- *Industry Association Core Funding Contribution Program*.

Yukon Region

Regional Organization and Staff Services

Regional Structure, Objectives and Initiatives/Issues

Regional Structure

Services provided by the Economic Development Branch of Indian and Inuit Affairs, Yukon Region, are directed to 14 communities in the Yukon and three communities in Northern British Columbia. These communities represent 13 officially recognized Indian bands in the Yukon, and two Indian bands, and one other separate community in British Columbia.

The status Indian population in the region is approximately 5,900 which represents a 63 percent increase in population over the pre-Bill C-31 population (compared to the national average increase of approximately 25 percent). The registered Indian population increase of 500 persons from the previous year is largely attributable to Bill C-31 registration. It is estimated that at least 550 additional Indians will receive status under Bill C-31.

Objectives

The objective of the Regional and IA Economic Development unit is to assist CEDOs in developing the capacity to deliver economic development programs and services. As a result, CEDOs will be in a position to offer services to their membership in business and resource development.

Initiatives/Issues

Some of the issues/initiatives related to the region are as follows:

- Economic Development Officer Training;
- Yukon Comprehensive Land Claim negotiations and the implementation of the First Nations Self-Government;
- the implementation of an equitable funding formula;
- increased demands for training related to preparing First Nations for claims implementation;
- change of role from business advisors to community development advisors;

- community consultation;
- inter-governmental awareness of CAEDS; and,
- major resource development projects.

Staff Service

The Economic Development Program, I&IA, Yukon Region, is headed by the Director who reports functionally to the Assistant Deputy Minister, Economic Development, and is responsible for directing, designing, controlling and implementing programs to promote economic and employment development in First Nation communities.

Two Area Managers report to the Director, and are accountable for developing, implementing and maintaining a regional strategy for establishing the capacity of a region-wide network of First Nation community controlled Economic Development Organizations (CEDOs).

The Manger of Financial Services and Sectoral Institutions, reporting to the Director, is accountable for developing and implementing a regional strategy for business and sectoral development and to assist Indian entrepreneurs to develop large scale business ventures, and to gain access to government and commercial sources of expertise and investments. The manager is also responsible for managing the I.E.D.F. direct and guaranteed loan portfolios.

Reporting to the Director, the Employment and Training Co-ordinator is accountable for the delivery of the Indian Community Human Resource Development Strategy (ICHRS), assisting CEDOs in developing comprehensive human resource strategies, and ensuring that special employment equity measures are taken by public and large private sector employers.

The Business Services Clerk reports to the Director and is accountable for developing and monitoring regional economic development operational planning and monitoring regional economic development operational planning and control systems, in addition to maintaining regional economic data-bases and performance measure systems. As well, the clerk provides administrative and budgetary control services within the division.

Regional CED Approach

Funding: Allocation, Arrangements & Requirements

Allocation

The funding is specifically targetted for Community Economic Development Organizations, including the sectoral institutions, covering the 17 communities within the regional jurisdiction.

Arrangements & Requirements

Funding is provided through the Flexible Transfer Payments system and is based on an approved Operational Plan submitted by the CEDO, meeting the basic eligibility criteria as stated within the CAEDS process.

Service: Delivery, Objectives & Client Requirements

Delivery

Staff deliver programs from the Yukon Regional office. The Area Managers have an equal number of communities under their jurisdiction.

The Employment Co-ordinator, in addition to the Manager of Financial Services and Sectoral Institutions, as well as the Director, address the needs of all communities under their specialized areas.

With DIAND administering community economic and resource development programs, the local Aboriginal Economic Program of Industry, Science & Technology Canada delivers business development programming, and the Canada Employment and Immigration Commission is responsible for training programs.

Objectives

The objective of the services delivery unit is to assist the CEDOs in developing the capacity to deliver economic and employment development programs and services.

The objectives of the CEDOs in providing services to their membership are to:

- provide client support services;
- increase the number of Indian and Inuit businesses that contribute to the level of Indian and Inuit community wealth creation; and,

- increase the Indians and Inuit employed in and near the community.

Client Requirements

The client is expected to provide the department with a completed application form and an approved operational plan.

In addition, the client will be responsible for any follow-up reports.

Interdepartmental/Intergovernmental Partnership Mechanisms

The Yukon Regional DIAND Economic Development Branch liaises on an ongoing basis with both the Aboriginal Economic Program of Industry, Science & Technology Canada and the Canada Employment and Immigration Commission. This is in the form of a regional committee, and it meets to discuss project specific issues, as well as general topics.

Meetings are also arranged with other federal departments, in addition to Yukon Territorial Government Departments on an ongoing basis as required.

Indian Partnership Mechanisms

There are no formal Indian Partnership Mechanisms in place in the Yukon Region.

Informal meetings with band management groups and Economic Development officers are held on an ad hoc basis.

The Yukon Region does not have an Inuit clientele base.

Territorial Programs and Services

The following Territorial Programs are offered as part of the Canada/Yukon Economic Development Agreement:

Small Business Incentive Program

- Designed to assist small business in becoming more internationally and technologically competitive in the 21st Century
- Sub-programs consist of: Introduction to Technology, Diversification & Demonstration Projects, Introduction of New Management Systems, and Industry & Entrepreneurial Development Support.

Tourism Sub-Agreement

- Designed to promote international competitiveness and excellence in products and services
- Development and marketing efforts are focussed on high return markets while continuing to maintain existing markets.

Economic Development Planning Sub-Agreement

- Provides support under two elements: Planning & Community Economic Development Planning
- Planning Element will consider funding studies related to communities to enable them to participate in the planning of community-based economic development projects.

Mineral Resources Sub-Agreement

- Assistance available under three elements: Geological Studies, Geochemical Surveys and Mining Research and Development.
    - Geological Studies: provides a systematic, state-of-the art information base on the relationship between mineral deposits and geology.
    - Geochemical Surveys: provides geochemical information that helps define the mineral potential of selected areas, to stimulate regional broadly based exploration, and to extend the existing coverage of regional chemical mapping.
    - Mineral Research & Development: assists in improving the economic efficiency of the mining industry, to promote improved environmental performance of mining operations, and to foster improved co-ordination between industry and government.

Renewable Resources Sub-Agreement

This sub-agreement provides assistance through three elements: Research & Planning; Pilot & Demonstration Initiatives; Business Development:

Research & Planning: the purpose of this element is to:

- promote analysis which identify renewable resource development on a sustainable basis

- promote research, analysis and resolution of constraints inhibiting the development of renewable resources

- promote the preparation of sector strategies

- promote training opportunities necessary for the development of various sectors.

Pilot and Demonstration Initiatives: promotes the development and the commercial use of Yukon's renewable resources on an environmentally and economically sustainable basis through the funding of pilot & demonstration projects illustrating long-term viability and adhering to the principles of environment-economy integration.

Business Development: directed to encourage business development and improve productivity and competitiveness in the renewable resource sector through modernization, expansion and the establishment of enterprises which adhere to the principles of environment-economy integration by harvesting, processing and manufacturing.

The Canadian Aboriginal Economic Development Strategy Handbook For On-Reserve Services

VOLUME III

Technical Annexes

Department of Indian Affairs and Northern Development

Volume III – Technical Annexes

Annex 1	Selected Excerpts from the Summary of Economic Development Program Terms and Conditions
Annex 2	Community Economic Development Organizations/ Sectoral Development Institutions: Operating Plan Requirements
Annex 3	Community Economic Development Organization Typology Framework
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Annex 5	Formation and Funding of Sectoral Development Institutions: Operating Policy
Annex 6	Implementation Agreement Between Indian and Northern Affairs Canada and Industry, Science and Technology Canada Concerning Certain Joint Administrative Arrangements Involving the Delivery of the CAED Strategy
Annex 7	Aboriginal Business Development and Joint Venture Program: Terms and Conditions –Industry, Science and Technology Canada
Annex 8	Aboriginal Capital Corporations: Terms and Conditions (Including a listing of ACCs as of October 1990) –Industry, Science and Technology Canada
Annex 9	Resource Access Negotiations (RAN) Program: Program Guidelines
Annex 10	Memorandum of Agreement for Aboriginal Social Assistance Recipient Employment Training Between Indian and Northern Affairs Canada and Employment and Immigration Canada
Annex 11	Pathways in Brief –Employment and Immigration Canada
Annex 12	Pathways to Success – Background Paper –Employment and Immigration Canada
Annex 13	Pathways to Success – Policy and Implementation Paper –Employment and Immigration Canada
Annex 14	Environmental Assessment and Review Process Guidelines Order
Annex 15	Introduction to Real Property Taxation on Reserve –Indian Taxation Board

Selected Excerpts from the Summary of Economic Development Program Terms and Conditions

Eligibility Criteria For The Economic Development Program

Potential recipients seeking funding assistance will be required to submit proposals in writing and to fulfil a number of eligibility criteria to include, but not limited to, the following:

a) **All Components**

The eligible recipient will be required to demonstrate:

i) satisfactory management capacity;

ii) the intended impact on the client group or community;

iii) compliance with the program objectives; and

iv) proposed results are achievable within the given timeframe.

The eligible recipient will also be required to submit a budget and a cash flow statement.

b) **Community Economic Development Services**

The eligible recipient for funding for the Community Economic Development Organizations sub-sub-activity will also be required to identify:

i) a clear mandate and constituency support for the organization;

ii) the markets and intended services, (e.g. financial, employment, investment, business, resource services) to be provided by the organization;

iii) proposed clientele and beneficiaries;

iv) projected revenues and expenditures;

v) the projected leverage of funds from other sources;

vi) where relevant the potential for the organization to be self-sustaining;

vii) the processes for adhering to environmental protection provisions covered by the Canadian Environmental Protection Act (CEPA) guidelines; and

viii) other relevant information related to costs and social and economic benefits of the organization.

Furthermore, only Community Economic Development Organizations which are incorporated will be eligible to provide sectoral services.

c) **Indian/Inuit/Innu Community Human Resources Strategy**

- Entrepreneurial Development

Each proposal may include information regarding the number of participants, a description of the objective(s) and the intended activities to be undertaken, as well as a schedule of events for the duration of the project.

d) **Resource Development**

- Resource Identification, Access and Management

Each proposal may include details of:

i) the other party or parties to the negotiations or potential other party or parties to the negotiations, and an explanation of why the negotiations will succeed;

ii) the applicant's initiatives to secure funding from other sources;

iii) the applicant's past initiatives and expenditures which demonstrate a commitment to the project; and

iv) the applicant's planned initiatives and funding commitments to the project.

Each proposal may require compliance with federal environmental legislation and policy.

e) **Indian Taxation Services**

i) To be eligible for support, a band or other organization must be directly involved in the development of Indian property taxation by-laws or related taxation systems or be involved in the field of property taxation in general with direct relevance to Indian taxation.

ii) Recipients must agree to share findings and results of studies, and to participate, as appropriate, with other jurisdictions and interested parties in workshops, seminars, meetings, etc.

Flexible Transfer Payments Indian/Inuit/Innu Class Of Recipients

Listing of eligible recipients within Indian/Inuit/Innu class of recipients for Flexible Transfer Payments.

- Indian individuals on-reserve/off-reserve
- Inuit individuals
- Indian Bands/Inuit Settlements
- District Councils/Chief Councils
- Indian and Inuit Associations/Organizations
- Tribal Councils
- Other Indian/Inuit Communities
- Indian and Inuit Economic Institutions/Organizations
- Corporations
- Partnerships or groups of Indians/Inuit
- Beneficiaries of the James Bay Agreement and Northern Quebec Agreement
- Indian Education Authorities
- Indian Child Welfare Agencies
- Beneficiaries of the North-Eastern Quebec Agreement
- Cultural Education Centres
- Indian and Inuit Co-operatives
- Boards and Commissions

Note: Where the term Indian is used, Innu are assumed to be included.

Flexible Transfer Payments
Additional Terms And Conditions For Private And Public Class Of Recipients

A) Listing of eligible recipients within Private and Public classes of recipients.

Private

- Corporations
- School Boards
- Other Legal Entities
- Economic or Other Institutions
- Agencies/Corporations
- Profit and Non-profit Organizations
- Employers
- Local Authorities (i.e. Community)
- Other Organizations
- Non-Indian Individuals
- Special Interest Groups
- Universities and Colleges
- Cooperatives
- Training Institutions and Organizations

Public

- Training Institutions and Organizations
- Provincial/Territorial Governments
- Provincial/Territorial Agencies including Provincial School Boards
- Municipalities
- Crown Corporations
- Local Authorities
- Other Levels of Government
- Boards and Commissions
- Universities and Colleges
- Cooperatives

B) The objective of these terms and conditions is to ensure that appropriate contracts would be in place to improve the transfer payment management process within the Indian and Inuit Affairs Program, and to ensure that defined results or programs outputs are obtained from funding recipients for a predetermined fixed amount of expenditures;

The specific program criteria identifying the program objective, description and eligibility criteria for each component will be on-going;

Flexible transfer payments are to be used to obtain a defined result or program output from the recipient for a predetermined fixed amount of expenditures;

C) While there are no restrictions with respect to the Indian/Inuit ownership or control of these recipient vehicles, the beneficiaries must be Indian or Inuit;

D) The department will negotiate with the recipient, the details of the arrangement including a sufficiently detailed financial and operating plan to determine the benefits to the beneficiaries;

E) Payments will be made to recipients based on their budgets and approved cash flow. Conditions will be met before payment is made;

F) The schedule and basis of payment will be in accordance with the Guide on Financial Administration, and any exemptions or restrictions placed on the department by Treasury Board. The rules on funding limits for F.T.P. cash advances shall be in accordance with the Cash Management Policy of the government as it relates to contributions, in the absence of similar guidelines for "Other Transfer Payments". Advances will be accounted for in the year for which expenditures have been incurred;

G) The maximum payable, in respect of individual Flexible Transfer Payment agreements, will not exceed the Minister's authority for signing, making payments or amending agreements that conform with approved terms and conditions and are subject to parliamentary appropriations;

H) The department will determine if any former public office holder who left the federal government in the last twelve months is employed by the prospective recipient or is a major shareholder. If the person was at the SM level or above, the recipient will be required to supply written confirmation from his/her former department that he/she is in compliance with the post-employment provisions of the Conflict of Interest and Post-Employment Code;

I) Independent auditors may be appointed by the department to review the financial records maintained by the recipient to ensure that the program is being managed within the agreed arrangement, and that generally accepted accounting principles and practices have been consistently applied in the maintenance of financial records;

J) Where deemed necessary, the recipient will be requested to provide a financial report and/or a progress report to the department; the details of these reports are to be negotiated with the recipient;

K) These terms and conditions will remain in effect until revised or rescinded by Treasury Board;

L) The planned duration for any F.T.P. agreement shall not exceed one year;

M) All proposals for Flexible Transfer Payment funding will be in writing and reviewed by Regional departmental officials. In some instances, regional departmental officials may establish committees composed of representatives from government departments and/or agencies, industry and Indian, Inuit or Innu organizations to review and make recommendations concerning the proposals;

The final approval of F.T.P. proposals is the responsibility of the Minister of Indian Affairs and Northern Development or a delegated person; either the Regional Director General, the H.Q. Program Director General, Headquarters Directors or the Regional Directors or their equivalents, and in Districts at the level of District Manager and Agency Superintendent or their equivalent;

Authority to approve payments (by certifying that they are in accordance with the F.T.P. agreement) will be granted to departmental officers of DIAND at the levels of District Manager, Agency Superintendent or their equivalent;

N) The Program Evaluation Branch will conduct periodic evaluations of the activities as determined by the Departmental Audit and Evaluation Committee. The objective of these evaluations will be to measure the overall effectiveness of programs in meeting the department's stated objectives through the examination of a representative sample of projects or services;

This examination may include, but is not limited to, a review of the critical phases in the administrative delivery systems of the programs and the nature of impacts and effects resulting from the implementation of programs.

Schedule I
Flexible Transfer Payments
Minimum Terms And Conditions

Be Included In Agreements Between DIAND And Recipients

Minimum Terms And Conditions

Where an application for funding is approved, the recipient shall enter into an agreement, having such form and content as the Minister considers necessary or appropriate by including at least the following:

(a) identification of the recipient of the funding;

(b) purpose of the funding;

(c) effective date, duration of the agreement, and date of signing;

(d) the financial and/or non-financial conditions attached to the funding and the consequences of failure to adhere to these conditions;

(e) the maximum amount payable and (particularly in the case of high risk projects provisions for termination and withdrawal);

(f) the conditions to be met before payment is made, the schedule and the basis of payment;

(g) authority to approve payments will be granted to officers of DIAND as specified in the departmental "Financial Signing Authorities" manual;

(h) financial limitations (e.g., subject to appropriations);

(i) provision, if applicable, that all federal environmental legislation will be conformed with;

(j) provision for an audited financial statement on the overall financial position of the recipient, even though an audit and accompanying financial statements may not always be requested;

(k) reports to be submitted according to each specific program activity requirement; and

(l) specific remedial action to be discussed in the context of individual FTP agreements.

Management Terms And Conditions Between DIAND And The Treasury Board For Economic Development Contributions

Eligible Recipients

The class of Indian/Inuit/Innu recipients as identified on page 3 of this Annex and the class of private and public recipients on page 4 of this Annex.

II. Objective

To support Indians, Inuit and Innu to achieve economic growth and self-reliance through activities aimed at:

- improving access to private capital and other federal economic programs;
- instituting legal and structural measures which promote community-based economic growth;
- building capacity and strengthening Indian, Inuit and Innu Community Economic Development organizations;
- enabling community control over economic development and the management and exploitation of natural resources;
- increasing employability and local labour market participation; and
- optimizing federal, provincial and territorial support for community economic development.

III Eligibility Criteria

a) All Components

Potential recipients seeking contribution funding assistance will be required to submit proposals in writing and to fulfill a number of eligibility criteria to include, but not be limited to, the following:

i) satisfactory management capacity;

ii) the intended impact on the client group or community;

iii) compliance with the program objectives;

iv) specification of the target output to be achieved with the contribution agreement within a given time-frame;

v) disclosure of the involvement of any former public servants and whether the Treasury Board post-employment guidelines apply;

vi) disclosure of all sources of funding; and

vii) soundness of budget and cash flow statement.

In addition to the above, the following criteria must be met:

b) Indian/Inuit/Innu Community Human Resources Strategy

- Entrepreneurial Development

Each proposal may include information regarding the number of participants, a description of the objective(s) and the intended activities to be undertaken, as well as a schedule of events for the duration of the project.

c) Resource Development

- Resource Identification, Access and Management

Each proposal may include details of:

i) the other party or parties to the negotiations, or potential other party or parties to the negotiations, and an explanation of why the negotiations will succeed;

ii) the applicant's initiatives to secure funding from other sources;

iii) the applicant's past initiatives and expenditures which demonstrate a commitment to the project; and

iv) the applicant's planned initiatives and funding commitments to the project.

Each proposal may require compliance with federal environmental legislation and policy.

d) Indian Taxation Services

i) To be eligible for support, a band or other organization must be directly involved in the development of Indian property taxation by-laws or related taxation systems or be involved in the field of property taxation in general with direct relevance to Indian taxation.

ii) Recipients must agree to share findings and results of studies, and to participate, as appropriate, with other jurisdictions and interested parties in workshops, seminars, meetings, etc.

IV Departmental Review Procedures

All proposals are reviewed by departmental officials to ensure compliance with program eligibility criteria. In some instances, departmental officials may establish committees composed of representatives from government departments and/or agencies, industry and Indian, Inuit or Innu organizations to review and make recommendations concerning the proposals.

V Signing Authorities

All Components

Authority to Approve Agreements:

Each approved proposal or application will be subject to a formal contribution arrangement, between the Minister of Indian Affairs and Northern Development or his/her delegate and the eligible recipient, which specifies the responsibilities of each party in accordance with program objectives. The Minister's delegation of authority to sign contribution agreements will be contained in the departmental "Financial Signing Authorities" manual.

Authority to Approve Payments:

The Minister may delegate the authority to approve payments to such positions as are deemed appropriate. Authority to approve payments will be contained in the departmental "Financial Signing Authorities" manual.

VI Financial Limitations

Basis for Payments

The maximum amount payable to any one recipient will not exceed the amount appropriated by Parliament for this purpose. The schedule and basis of payments will be in accordance with the Treasury Board's "Guide on Financial Administration" and any exemptions or restrictions placed on the department by the Treasury Board. The rules on funding limits for cash advances shall be in accordance with the Cash Management Policy of the government as they relate to contributions. Advances will be accounted for in the Government's fiscal year for which expenditures have been incurred.

VII Audits

Each agreement will contain the provision that the Federal Government may require an audit even though an audit and accompanying financial statements may not always be requested.

VIII Evaluation

The Program Evaluation Branch will conduct periodic evaluations of Economic Development activities as determined by the Departmental Audit and Evaluation Committee. The objective of these evaluations will be to measure the overall effectiveness of the sub-activity in meeting its stated objectives through the examination of a representative sample of projects.

This examination may include, but is not limited to, a review of the critical phases in the administrative and delivery systems of the sub-activity, and the nature of impacts and effects resulting from its implementation on individuals and communities.

IX Period Of Applicability

These Terms and Conditions will remain in effect until revised by either the department or Treasury Board.

Contributions

Indian/Inuit/Innu Class Of Recipients

Listing of eligible recipients within Indian/Inuit/Innu class of recipients.

- Indian individuals on-reserve/off-reserve

- Inuit individuals
- Indian Bands/Inuit Settlements
- District Councils/Chiefs Councils
- Indian and Inuit Associations/Organizations
- Tribal Councils
- Other Indian/Inuit Communities
- Indian and Inuit Economic Institutions/Organizations
- Corporations
- Partnerships or groups of Indians/Inuit
- Beneficiaries of the James Bay Agreement and Northern Quebec Agreement
- Indian Education Authorities
- Indian Child Welfare Agencies
- Beneficiaries of the North-Eastern Quebec Agreement
- Cultural Education Centres
- Indian and Inuit Co-operatives
- Boards and Commissions

Note: Where the term Indian is used, Innu are assumed to be included.

Additional Private And Public Class Of Recipients

Listing of eligible recipients within Private and Public classes of recipients.

Private

- Corporations
- School Boards
- Other Legal Entities
- Economic or other Institutions
- Agencies/Corporations
- Profit and Non-Profit Organizations
- Employers
- Local Authorities (i.e. Community)
- Other Organizations
- Non-Indian Individuals
- Special Interest Groups
- Universities
- Cooperatives
- Training Institutions and Organizations

Public

- Training Institutions and Organizations
- Provincial/Territorial Governments
- Provincial/Territorial Agencies including Provincial School Boards
- Municipalities
- Crown Corporations
- Local Authorities
- Other levels of government
- Boards and Commissions
- Universities and Colleges
- Cooperatives

Minimum Terms And Conditions That Will Be Included In Contribution Agreements Between DIAND And Eligible Recipients

Where an application for a contribution is approved, the recipient shall enter into a contribution agreement, having such form and content as the Minister considers necessary or appropriate but including at least the following:

i) identification of the recipient of the contribution;

ii) purpose of the contribution;

iii) effective date, duration of the agreement, and date of signing;

iv) the financial and/or non-financial conditions attached to the contribution and the consequences of failure to adhere to these conditions;

v) the allowable costs or the types or classes of expenditure eligible for reimbursement;

vi) the conditions to be met before payment is made, the schedule and the basis of payment;

vii) the maximum amount payable and (particularly in the case of high risk projects) provisions for termination and withdrawal;

viii) authority to approve payments will be granted to officers of DIAND as specified in the departmental "Financial Signing Authorities" manual.

ix) financial limitations (subject to appropriations);

x) provision for audit;

xi) provision that any money paid in excess, unexpended balances, disallowed expenses and any funds not disbursed for the purposes of the contribution agreement constitutes debts due to the Crown;

xii) disclosure of the involvement of any former public servants and whether the T.B. post-employment guidelines apply for Public and Private recipients as identified in Annex VIII, Page 7, Private and Public;

xiii) provision that all applicable federal environmental legislation and policies will be conformed with; and

xiv) full disclosure of all sources and purposes of financial assistance received by the recipient.

Program Activity Structure by Type of Transfer Payment

Activity: Economic Development

Sub-Activity	**Sub-Sub-Activity**	**Type of Transfer Payment**
Community Economic Development Services (CEDS)	• Community Economic Development Planning	FTP
	• Community Economic Development Organization	FTP
	• CEDS Administration	FTP
Indian/Inuit/Innu Community Human Resources Strategy (ICHRS)	• Institutional Training	FTP
	• Training On-the-Job (TOJ)	FTP
	• Mobility	Grant
	• Skilled Career Opportunities Program Element (SCOPE)	FTP
	• Entrepreneurial Development	Contribution
	• Community Investment	FTP
	• ICHRS Administration	FTP
Lending Programs	• Direct Loans	–
	• Loan Guarantees	–
	• Lending Administration	–
Resource Development	• Resource Identification, Access and Management	Contribution
	• Resource Development Administration	FTP
Indian Oil and Gas Canada (IOGC)	• Resource Identification, Access and Management	–
	• IOGC Administration	–
Research and Advocacy	• Research	Contribution
	• Advocacy	Contribution
	• Policy Development	Contribution
	• Research and Advocacy Administration	Contribution
Indian Taxation Services (ITS)	• Consultation and Negotiation	Contribution
	• ITS Administration	Contribution
Activity Management	• Activity Management	–

*Flexible Transfer Payment

Community Economic Development Organizations
Sectoral Development Institutions
Operating Plan Requirements

Communities seeking funding assistance must submit an Operating Plan which addresses the following matters:

1. Organizational management capacity, and an adequate system of financial, administrative and personnel controls;
2. A clear mandate, constituency support and accountability to community leadership;
3. Plan for delivery of intended services (e.g. financial, employment, investment, business, resource services);
4. Compliance with the program objectives;
5. Eligible clientele and beneficiaries;
6. Achievability of proposed results within planned timeframe;
7. Realistic revenues and expenditures;
8. Plan for levering funds from other sources;
9. Plan for increasing organizational and financial self-reliance;
10. Plan for increasing the participation of aboriginal women in CED activities; and,
11. Process for adhering to environmental protection provisions covered by the CEPA guidelines.

CEDO Typology Framework

Service delivery capacity can be assessed by considering CEDOs to be in one of four possible development stages:

Developed – Evolving – Formative – Planning

These stages of organizational capacity development can be summarized as follows:

Developed: Self-reliant, stable organization delivering full range of services and programs which consistently meet their goals;

Evolving: Satisfactorily providing basic advisory services role and delivering most devolved programs with regular DIAND advice;

Formative: Developing basic capacity to provide advisory services and deliver some programs with regular DIAND advice;

Planning: Community assessing CEDO development options, services and program delivery controlled by DIAND.

The distinction between one stage and another within this typology may be assessed using the following capacity analysis framework which describes CEDO success factors in delivering economic development programs and services:

- Planning, Organization and Management Capacity

1. Objectives
2. Strategic Planning and Consultation
3. Organization & Accountability Structure
4. Economic Decision-Making
5. Community Support and Awareness
6. Management and Staff Capacity

- Range of Services Provided

– Community Economic Development Planning
– Business Development & Maintenance Advisory Services
– Job Placement Services

- Human Resource Development Services
- Resource Development Advisory Services
- Client Management Training and Development
- Leverage Capacity

- Results Achieved

- Achieving Planned Outputs
- Community Satisfaction
- Investors' Perception of Effectiveness
- Attracting Internal Funds

CEDO Typology Framework

CEDO Organization ______________________

Date ______________

	Developed	Evolving	Formative	Planning
Definition	☐ Self-reliant, stable organization, staffed by qualified personnel, delivering a full range of services and programs which consistently meet community goals and objectives	☐ Provides basic advisory service role and delivering most devolved programs with regular DIAND advice	☐ Developing basic capacity to provide advisory services and deliver some programs with regular DIAND advice	☐ Community assessing CEDO development options; services and program delivery controlled by DIAND

The above named CEDO was jointly assessed by the undersigned.

This assessment identifies the strengths and weaknesses of the organization in its capacity to deliver programs and advisory services to its constituents. This document should be used as a tool to assist the management of the organization.

CEDO representative ______________________

DIAND representative ______________________

Independent representative ______________________

CEDO Typology Framework

	Developed	Evolving	Formative	Planning
Planning, Organization and Management Capacity				
1. **Objectives**	☐ To deliver a full range of advisory services and programs	☐ To deliver advisory services that replace DIAND delivery	☐ To clarify range of advisory services and type of assistance to be provided	☐ To assess feasibility and community interest in implementing advisory service role
2. **Strategic Planning and Consultation**	☐ Strategic multi-year planning focussing on long-term results	☐ Short-term (annual) operational planning	☐ Implementation planning	☐ Conceptual planning
	☐ Demonstrated community consensus on CED short- and long-term goals through full consultation with constituency	☐ Moderate consultation with constituency	☐ Limited consultation with constituency	☐ N/A
	☐ Builds in periodic evaluations to re-assess strategic directions	☐ Operational reviews	☐ N/A	☐ N/A

CEDO Typology Framework

	Developed	Evolving	Formative	Planning
3. **Organization and Accountability Structure**				
Legal Structure	☐ Established as community (non-profit) development corporation	☐ Unincorporated, but considering formation of community development corporation	☐ Chief(s) searching for appropriate organization structure	☐ Chief(s) searching for appropriate organization structure
Management Structure	☐ Board of Directors accountable to constituents	☐ Economic Development Director/ manager accountable to Tribal/Band Council Review Committee	☐ Economic Development responsibility is assigned to member(s) of Tribal/Band Council who are accountable to Tribal Chiefs	☐ Tribal/Band Chief(s)
Organization	☐ Board of Directors composed of chiefs and knowledgeable representatives	☐ Review Committee usually composed of Chiefs and other representatives	☐ Usually no review committee	☐ N/A
	☐ Management and staff responsibilities clearly defined, i.e.: job descriptions, organization chart, work plan reviews	☐ Process established to define staff job duties and management responsibilities	☐ Management and staff responsibilities not clear	☐ N/A

CEDO Typology Framework

	Developed	Evolving	Formative	Planning
3. **Organization and Accountability Structure** (continued)				
Accountability	☐ Community meetings for feedback via: Annual report(s) Audit report Performance indicator report(s)	☐ Tribal/Band Council meetings to report on operating plan results to constituents	☐ Tribal/Band Council meetings to report on implementation plan results	☐ N/A
Policy Framework	☐ Full set of operating, financial and personnel policies in place and understood	☐ General operating guidelines established and communicated	☐ Ad hoc operating guidelines; not always clear	☐ N/A

CEDO Typology Framework

	Developed	Evolving	Formative	Planning
4. **Economic Decision-Making**	☐ Thorough staff review and expert analysis based on cost/benefit criteria	☐ Ad hoc decision making process (few criteria)	☐ Ad hoc decision making; no systematic approval process consistent with implementation plan	☐ DIAND staff approval process
	☐ Emphasis on long-term economic payoffs	☐ Emphasis on short-term benefits	☐ Day to day decision making process	☐ DIAND staff approval process
	☐ Approvals consistent with CED strategic plan	☐ Approvals consistent with one-year operating plan	☐ Approvals not always consistent with implementation plan	☐ DIAND staff approval process
5. **Community Support and Awareness**	☐ Regular Board of Directors meeting(s) with constituents or similar consultation mechanism established; supplementary feedback via: – surveys – workshops – newsletters – community meetings	☐ Moderate consultation with community	☐ Limited consultation with community	☐ Assessing community interests via: Tribal/ Band Council meetings

CEDO Typology Framework

	Developed	Evolving	Formative	Planning
6. **Management and Staff Capacity**				
Board of Directors	☐ Board members with a broad range of experience and skills	☐ N/A	☐ N/A	☐ N/A
Director	☐ Professionally qualified executive director	☐ Experienced director/ manager	☐ Management tasks assigned to Band Councillor or staff member	☐ N/A
Staff	☐ Full staff complement of qualified development officers; preference to community or aboriginal people	☐ Some qualified economic development staff; consultants, CESO used more strategically	☐ Less experienced staff officers; extensive use of consultants, CESO, etc.	☐ Staff not yet recruited; reliance on consultants, CESO and DIAND staff
Staff Development and Retention	☐ Training needs assessment completed and training plan in place	☐ Training conducted in an ad hoc manner	☐ Minimal emphasis on training	☐ N/A
	☐ Appropriate budget approved for training expenditures	☐ Ad hoc expenditures	☐ No budget estimates	☐ N/A
	☐ Low turnover of staff	☐ Moderate turnover of staff	☐ High turnover of staff	☐ N/A

CEDO Typology Framework

	Developed	Evolving	Formative	Planning
7. **Range of Services Provided**				
Recognize importance of providing advisory services and program	☐ Providing a full range of advisory services and programs – CED planning – Business Development & Advisory Services – Job Placement – Human Resource Development – Client Management – Training & Development	☐ Some capacity to deal with problems of existing businesses – Primarily business development evolving to community economic development, human resource development, resource development	☐ Limited capacity to deal with problems of existing businesses –Advisory services primarily business development	☐ Advisory services not available (Assess types of advisory services required)
	☐ Large and small projects (including joint ventures)	☐ Medium to small projects	☐ Small Projects	☐ Projects
	☐ Limited call on regional staff services; strategic use of consultants	☐ Regular call on regional staff services and consultants	☐ Ongoing call for regional staff services and consultants	☐ Region delivering services through contracted process

CEDO Typology Framework

	Developed	Evolving	Formative	Planning
7. **Range of Services Provided** (Continued)	☐ Project management capability; little need for outside assistance; technical expertise contracted	☐ Project management consultants for medium & major projects	☐ Significant use of consultants... all projects	☐ Dependent on DIAND
	☐ Good track record in obtaining funds from other appropriate sources	☐ Some difficulty in identifying and levering funds from appropriate sources	☐ Poor success in project proposal approvals due to poor quality, inappropriate approaches, etc.	☐ Seeking DIAND funds only

CEDO Typology Framework

	Developed	Evolving	Formative	Planning
Results Achieved	☐ Consistently meets CED strategic goals and objectives	☐ Most annual operating plan results achieved	☐ Limited achievement of planned results	☐ N/A
	☐ Prudent financial and human resource management practices; most projects completed on time and within budget	☐ Have identified need for improved management practices in specific areas; many projects completed on time and within budget	☐ Inconsistent management practices; time delays and significant project cost over runs	☐ N/A
	☐ Good track record; Tribal/Band Council allocates additional internal funds to Economic Development	☐ Reasonable track record; occasionally able to attract extra internal funds	☐ Poor track record; occasionally economic development funds relocated to other programs	☐ N/A
	☐ Perceived by investors as successful			
TOTAL	☐	☐	☐	☐

Funding Arrangement
Reporting Requirements
Data Annexes

Purpose

Performance results data concerning the delivery of services provided by CEDOs and Regional Opportunities Program initiatives is collected through the use of Data Annex forms. This information is necessary to meet central agency and departmental management reporting requirements.

Introduction

There are two types of Data Annexes:

- **Community Economic Development (Yellow)**

  For all funding of economic development services which are delivered through a CEDO or for Regional Opportunities Program initiatives where Service Code (4020, 4021, 4022, and 4023) is used.

- **Direct Delivered Commercial & Resource Development (Green)**

  For all loans and loan guarantees and for Direct Delivered Resource Development activities. The resource development activities would be those where Service Code (4025, 4026, 4033, and 4034) is used.

Requirement

A Data Annex is to be completed for each Transfer Payment Funding Arrangement whether it be a Comprehensive Funding Arrangement, a stand-alone Flexible Transfer Payment (FTP), an Alternative Funding Arrangement, Contribution Agreement, loan or loan guarantee arrangements. Data Annexes should be completed by the recipient or the regional staff based on the Operating Plan for Community Economic Development Organization requests, Regional Opportunities Program initiatives, i.e., Sectoral Development Institutions and regional special initiatives or projects.

Data Annexes are to be completed when an initial funding arrangement is signed; if an arrangement is revised and at the end of the fiscal year to reflect actual data. Final reports are required for Community Economic Development but not for Direct Delivered Commercial and Resource Development.

CED Data Annex — Hard Copy

Headquarters has designed a Lotus spreadsheet to capture all Community Economic Development information, therefore, it is required that all copies of the **original** Data Annex forecasts and amendments be forwarded to headquarters on a monthly basis.

For the Month ending:	Forwarded to HQ By
April to July 1991	August 9, 1991
August 1991	September 6, 1991
September 1991	October 11, 1991
October 1991	November 8, 1991
November 1991	December 6, 1991
December 1991	January 10, 1992
January 1992	February 7, 1992
February 1992	March 6, 1992
March 1992	April 10, 1992

CED Data Annex Completion

There are three sections to the Data Annex, those being: (1) Tombstone Information, (2) Financial Plan; and, (3) Employment Data. Some fields are absolutely **mandatory** and are identified as such.

TOMBSTONE INFORMATION

Project No: (MANDATORY)

The Project Number is completed for all CED projects (key Field 7 digits; first 3 – Region and District, last 4 – sequentially from 6001).

Recipient Type: (MANDATORY)

Identify a recipient by using one of the following numbers:

CEDO

1	Tribal Council
2	Unaffiliated Band
3	Inuit or Innu Community
4	Community Development Corporation

Regional Opportunities Program

5	Sectoral Development Institutions
6	Special Regional Initiatives

Other

7	Provincial/Territorial Governments
8	Crown Corporation
9	Other

**** If Sectoral Corporation**

Identify the type by using one of the following numbers:

1	Agriculture
2	Fishery
3	Forestry
4	Arts & Crafts
5	Tourism
6	Mining, Minerals,
7	Oil & Gas
8	Trapping
9	Training/Education Inst.
10	Advisory Services
11	Other

CED DATA ANNEX

Region: (MANDATORY)

Identify by using one of the following numbers:

1	Northwest Territories
2	Atlantic
3	Quebec
4	Ontario
5	Manitoba
6	Saskatchewan
7	Alberta
8	Yukon
9	B.C.
10	NCR

Recipient/Address: (MANDATORY)

Identify the recipient name and complete address.

Agreement Number: (MANDATORY)

Identify arrangement number.

EAS Cost Element Code: (MANDATORY)

Refer to the Financial Management Manual, Volume II, Expenditure Coding (Table IV).

Date: (MANDATORY)

Agreement signature date.

Regional Programmable Code: (OPTIONAL)

Optional codes for regional creation of non-system tables.

FINANCIAL PLAN

Fiscal Year: (MANDATORY)

Identify the current fiscal year by using the last two digits, for example, 1991/92 = 91.

Report Status: (MANDATORY)

Identify by using one of the following codes:

1 **Forecast** -- as agreements are approved

2 **Amendment** – when aggreement is amended

3 **Final** – year end actual data

CED DATA ANNEX – SOURCES OF FUNDS

DIAND:

Community Economic Development:

Funds provided to a CEDO or a regional development opportunity initiative to create a stable, self-reliant organization which delivers a full range of advisory services and programs.

Band Support/Tribal Council Funding:

The amount of funding provided to either a band or tribal council.

Social Assistance Transfer:

The amount of Social Assistance dollars transferred.

Other DIAND:

Identify the source and amount of other DIAND funding.

EIC:

The total amount of funding from EIC.

Aboriginal Economic Programs (ISTC):

The total amount of funding from Industry, Science and Technology Canada.

Other Federal:

The total amount of funding from other federal sources.

Provincial/Territorial/Municipal:

The total amount of funding obtained from provincial, territorial and/or municipal sources.

Native Community Organization:

The total amount of funding contributed by a band, community, tribal council or other native organization.

Other:

Identify the source and total amount of funding from other sources.

CED DIAND FUNDS – TOTAL EXPENDITURE FORECAST

Planning:

Identify the resources provided for planning to support organizational capacity building, for example, strategic planning study.

Overhead:

Identify the funding provided for all salaries, administration, operating costs and service delivery associated with the provision of economic, employment and resource development services, for example, staff salaries.

Flow-Through:

- Business Development: Identify funding to third parties for business development.
- Resource Development: Identify funding to third parties for resource development.
- Employment and Training: Identify funding to third parties for employment development.

Part 'A' To Be Completed For Business Development And Resource Development

EMPLOYMENT DATA

Direct Jobs: Identify the jobs within a community economic development organization or sectoral development institution.

Indirect Jobs: Identify the jobs created with flow-through dollars by a community economic development organization, sectoral development corporation or special initiative project.

JOB: Employment for which renumeration is paid.

JOB CREATED: A new job created during the current fiscal year.

JOB MAINTAINED: A job which continues in existence from the previous fiscal year.

Number of full-time jobs created/maintained: Indicate the number of males and/or females hired to perform a job wherein the person(s) is(are) employed in an indeterminate position.

Number of part-time jobs created/maintained: Indicate the number of males and/or females hired to perform a job wherein the person(s) is(are) employed: on an indeterminate basis to regularly work only a part of the full or standard number of hours, or temporarily for a period of time with a pre-determined date of employment completion; or seasonally with an industry that is in intensive operation once or twice a year, for example, fishing.

Number of Person-Weeks: Identify as a unit of measurement for employment defined as one working week of the full or standard number of hours fixed by the employer which the employee(s) is(are) employed. Portions, therefore, should be calculated in decimals, for example, 3 days = 0.60, 20 hours = 0.50.

Enterprises Financed: Identify the number of **new** and **existing** enterprises or entrepreneurs.

Enterprises Counselled (Technical or Advisory): Identify the number of enterprises or entrepreneurs counselled.

Part 'B' To Be Completed For Employment & Training

Employment & Training Services:

Indicate the number of males, females and Social Assistance recipients who are included in the total for those individuals who receive counselling/advisory services to job placement, find employment and are recommended for training.

Institutional Training:

Indicate the number of trainees (males and females), Social Assistance recipients included in the total, and the number of training days.

Training-on-the-job:

Indicate the number of trainees (males and females), Social Assistance recipients included in the total, and the total number of training days.

Mobility:

Indicate the number of people (males and females), Social Assistance recipients who receive travel or relocation assistance.

Entrepreneurial Development:

Indicate the number of participants (males and females), Social Assistance recipients included in the total, and the total number of training days for those who receive entrepreneurial training and internships with existing businesses.

Community Investment:

Employment Projects: Indicate the number of males, females, Social Assistance recipients included in the total and person weeks of employment for those individuals who receive work experience, skill enhancement or employment bridging until long-term jobs are available.

Socio-Economic Enterprises: Indicate the number of socio-economic enterprises which are funded to subsidize wages or provide operating capital where additional jobs will be created or where jobs which would be lost will be maintained. Indicate the number of males, females and Social Assistance recipients included in the total who receive employment.

Skilled Career Opportunities Program Element:

Indicate the number of trainees (males and females), Social Assistance recipients included in the total and the total number of training days for those individuals who acquire education, skills, training and work experience necessary for entry into technical, trades, supervisory or paraprofessional service.

DATA ANNEX FOR COMMUNITY ECONOMIC DEVELOPMENT PROGRAM

Project No. ☐☐☐6☐☐☐ Recipient Type: ☐ ** If Sectoral, use Type Code: ☐ Region: ☐

Recipient: ____________________

Address: ____________________

Prov/Terr: ________ Postal Code: ________ Telephone: (   ) ____-____

Agree. No: ____________ EAS Cost Element ☐☐☐☐☐ Date: ____________

Regional Programmable Codes: 1: ☐☐ 2: ☐☐ 3: ☐☐

FINANCIAL PLAN

Fiscal Year ☐☐ Report Status: Forecast ☐ Amendment ☐ Final ☐

Source of Funds

DIAND	
Community Economic Development	$
Band Support/Tribal Council Funding	$
Social Assistance Transfer	$
Other DIAND ________	$
Sub-Total	$
CEIC	$
Aboriginal Economic Programs (ISTC)	$
Other Federal	$
Sub-Total	$
Provincial/Territorial/Municipal	$
Native Community Organization	$
Other ________	$
TOTAL	$

Expenditure Forecast

	CED DIAND $	Total $
Planning	$	$
Overhead	$	$
Flow-through:		
Business Development	$	$
Resource Development	$	$
Employment & Training	$	$
TOTAL	$	$

PART 'A' BUSINESS DEVELOPMENT & RESOURCE DEVELOPMENT

Employment Data

Direct Jobs	Created		Maintained		Indirect Jobs	Created		Maintained	
	Male	Female	Male	Female		Male	Female	Male	Female
No. of full-time jobs					No. of full-time jobs				
No. of part-time jobs					No. of part-time jobs				
No. of Person Weeks					No. of Person Weeks				

Enterprises Financed: New ☐ Existing ☐ Enterprises Counselled (Technical or Advisory) ☐

PART 'B' EMPLOYMENT & TRAINING

	Male	Female	TOTAL	Social Assistance Recipient	
	Number				
EMPLOYMENT & TRAINING SERVICES	☐	☐	☐	☐	
	Number Trained				Training Days
INSTITUTIONAL TRAINING	☐	☐	☐	☐	☐
	Number Trained				Training Days
TRAINING ON THE JOB	☐	☐	☐	☐	☐
	Number Assisted				
MOBILITY	☐	☐	☐	☐	
	Participants				Training Days
ENTREPRENEURIAL DEVELOPMENT	☐	☐	☐	☐	☐
COMMUNITY INVESTMENT					
Employment Projects	Number Employed				Employment
	☐	☐	☐	☐	☐ Weeks
Socio-Economic Enterprises					
Enterprises Funded	Number Employed				
Number ☐	☐	☐	☐	☐	
	Number Trained				Training Days
SKILLED CAREER OPPORTUNITIES PROGRAM ELEMENT	☐	☐	☐	☐	☐

GUIDE TO COMPLETE DATA ANNEX FOR COMMUNITY ECONOMIC DEVELOPMENT

Project No.: (KEY FIELD) 7 digits, first 3 - Region & District, last 4 - sequentially from 6001

Recipient Type: Identify a recipient by using one of the following numbers:

CEDO
1. Tribal Council
.2 Unaffiliated Band
3. Inuit or Innu Community(s)
4. Community Development Corporation

REGIONAL OPPORTUNITY DEVELOPMENT
5. Sectoral Development Institution
6. Special Initiative

OTHER
7. Provincial / Territorial Government
8. Crown Corporation
9. Other

The term "Native" is defined as either Indian, Innuit or Innu.

****If Sectoral Development Institution (SDI):** Identify the type by using one of the following numbers.
1 - Agricultural
2 - Fishery
3 - Forestry
4 - Arts & Crafts
5 - Tourism
6 - Mining, Minerals
7 - Oil & Gas
8 - Trapping
9 - Training/Education Institutions
10 - Advisory Services
11 - Other

Region: Identify by using one of the following numbers:
1 - Northwest Territories
2 - Atlantic
3 - Quebec
4 - Ontario
5 - Manitoba
6 - Saskatchewan
7 - Alberta
8 - Yukon
9 - British Columbia
10 - NCR

Recipient / Address: Recipient name and complete address.
Agreement Number: Identify either the Comprehensive Funding Agreement Number OR the Flexibile Transfer Payment Arrangement Number.
EAS Cost Element Code: Reference the Financial Management Manual. Volume II, Expenditure Coding (Table IV).
Date: Date on which the agreement was signed.
Regional Programmable Codes: Optional codes for Regional creation of non-system tables.

FINANCIAL PLAN
Fiscal Year: Identify the current fiscal year by using the last two digits, i.e. 1991/92 = 91
Report Status: Identify by using the following code:
1) **Forecast** - as agreements are approved 2) **Amendment** - when agreements are amended 3) **Fiscal** - year end actual data

SOURCE OF FUNDS:

DIAND
Community Ec. Dev. The funds provided.
Band Support / Tribal Council Funding: Funds provided.
S.A. Transfer: Social Assistance Funding.
Other DIAND: Identify source and funding.

CEIC: CEIC dollars provided.
Aboriginal Economic Programs (ISTC): Includes funding from Industry, Science & Technology Canada.
Other Federal: Funding from other Federal sources.
Provincial / Territorial / Municipal. Funding from Provincial / Territorial / Municipal sources.
Native Community Organization: Funding from the Band, Community, Tribal Council or Organization.
Other: Identify source and funding.

EXPENDITURE FORECAST:

CED DIAND FUNDS - TOTAL FUNDS
Planning: Resources provided for planning to support organizational capacity building, i.e., strategic planning study.
Overhead: Funding provided for all salaries, administration, operating costs and services delivery associated with the provision of business development, resource development and training services.

Flow-through
Business Development: Funding to third parties for business development.
Resource Development: Funding to the third parties for resource development.
Employment & Training: Funding to the third parties for employment development.

PART 'A' TO BE COMPLETED FOR
BUSINESS DEVELOPMENT AND RESOURCE DEVELOPMENT
EMPLOYMENT DATA

Direct Jobs: Identify the jobs within a community economic development organization or sectoral development institution.
Indirect Jobs: Identify the jobs created with flow-through dollars by a community economic development organization, sectoral development corporation or special initiative project.
JOB: Employment for which remuneration is paid.
JOB CREATED: A new job created during the current fiscal year.
JOB MAINTAINED: A job which continues in existence from the previous year.
No. of full-time jobs created / maintained: Indicate the number of males / females hired to perform a job wherein the person(s) is(are) employed on an indeterminate position.
No. of part-time jobs created / maintained: Indicate the number of males / females hired to perform a job wherein the person(s) is(are) employed on an indeterminate basis to regularly work only a part of the full or standard number of hours, or temporary for a period of time with a pre-determined date of employment completion; or seasonally with an industry that is in intensive operation once or twice a year, e.g. fishing.
No. of Person weeks: Identify as a unit of measurement for employment defined as one working week of the full or standard number of hours fixed by the employer which the employee(s) is(are) employed. Portions, therefore, should be calculated in decimals, i.e. 3 days = 0.60, 20 hours = 0.50.
Enterprises Financed: Identify the number of new and existing enterprises or entrepreneurs.
Enterprises Counselled (Technical or Advisory): Identify the number enterprises or entrepreneurs counselled.

PART 'B' TO BE COMPLETED FOR
EMPLOYMENT & TRAINING

EMPLOYMENT & TRAINING SERVICES:
Indicate the number of males, females and Social Assistance recipients who are included in the total for those individuals who receive counselling / advisory services to job placement, find employment and are recomended for training.
INSTITUTIONAL TRAINING:
Indicate the number of trainees (males and females), and Social Assistance recipients included in the total, and the total number of training days.
TRAINING ON-THE-JOB: Indicate the number of trainees (males and females), and Social Assistance recipients included in the total, and the total number of training days.
MOBILITY: Indicate the number of trainees (males and females), and Social Assistance recipients who receive travel or relocation assistance.
ENTREPRENEURIAL DEVELOPMENT:
Indicate the number of people (male and female), Social Assistance recipients included in the total, and the total number of training days for those who receive entrepreneurial training and internship with existing businesses.
COMMUNITY INVESTMENT:
Employment Projects: Indicate the number of males, females, Social Assistance recipients included in the total and persons weeks of employment for those who experience, skill enhancement of employment bridging until long-term jobs are available.
Socio-Economic Enterprises: Indicate the number of socio-economic enterprises which are funded to subsidize wages or provide operating capital where additional jobs will be created or where jobs which would be lost will be maintained. Indicate the number of males, females, and Social Assistance recipients included in the total who receive employment.
SKILLED CAREER OPPORTUNITIES PROGRAM ELEMENTS:
Indicate the number of people (male and female), Social Assistance recipients included in the total, and the total number of training days for those individuals who acquire education, skills, training and work experience necessary for entry into technical, trades, supervisory or paraprofessional servic

Indian and Northern
Affairs Canada

DATA ANNEX FOR DIRECT-DELIVERED COMMERCIAL & RESOURCE DEVELOPMENT FOR THE BUSINESS & PLANNING SYSTEM

Band/Settlement No.
Business No.
District Code
Development Category ☐
SIC Code

Client Information

Name of Business
Type of Business
Street Address
City
Postal Code
Area Code
Business Tel. No. –
Year Started

Ownership Form ☐
Legal Form ☐
On/Off Reserve Code ☐
Regional Programmable Codes 1: 2: 3:

Comments: ______________________________

Financial Data

Fiscal Year

Current Financial Status	
Current Assets	
Long Term Assets	
Current Liabilities	
Long Term Liabilities	
Net Worth	
Gross Income	
Gross Expenses	
Taxes Paid	
Salaries – Actual	

Employment Data	Created		Maintained	
	Male	Female	Male	Female
No. of full-time jobs				
No. of part-time jobs				
No. of Person Weeks				

Salaries – Projected	
Sales – Projected	
Profits – Projected	

Years to financial indep. from govt. financing
Viability Assessment ☐ Current ☐ Long Term
Impact Assessment Band Economy ☐ Band Social ☐ Management Capacity ☐

Funding Source	Capitalization Use C	Operating Use O
IEDF Guarantees		
IEDF Loans		
Resource Development		
Other DIAND		
NEDP		
CEIC		
Special ARDA		
Provincial/Municipal		
FBDB		
Other Federal		
Banks		
Joint/Other		
Band/Indian Institution/Tribal Council		
Owner Equity		

IEDF Guarantee, Loan and/or Contribution
No.
No.

Application Approval Date
(M/D/Y)

Guarantee
Interest
Prime + . %
Risk %

Total Project $

Prepared By:
Date:

DATA ANNEX FOR DIRECT-DELIVERED COMMERCIAL & RESOURCE DEVELOPMENT
FOR THE BUSINESS & PLANNING SYSTEM

Band Number: Band number that the business is associated with or the owner is a member.

Business Number: The first three digits are the Band Number, the last three digits are sequentially assigned at the Regional Office. Leave the last three digits blank if 'new' businesses.

District Code: Indicate the district location code.

Development Category:

1 – Business Development: An eligible applicant may receive business development contributions, in respect of a business enterprise, for the following purposes; provision of equity, financing inventory, purchase of equipment, provision of joint venture capital and/or hiring professionals, etc.

2 – Resource Development: Identify and assess the natural resource base on and off the reserve or in the community. For example, exploration activities in the non-metallic and metallic sector, development of forest management plans, inventories and conservation strategies.

SIC Code: The number can be located in the Standard Industrial Classification manual.

CLIENT INFORMATION

Name of Business, Full Address, Area Code & Telephone Number: Self-explanatory.

Type of Business: Describe the type of business, ie: cattle ranch, dry well contracting, etc.

Year Started: The year the business commenced operation.

Ownership Form:

1 – If jointly owned by male(s)/female(s)
2 – If band owned
3 – If joint venture with non-native(s)
4 – If joint venture with other bands, associations
5 – If owned by non-native(s)
6 – If owned by male(s) only
7 – If owned by female(s) only

Legal Form: 1 – If not incorporated 2 – If incorporated 3 – If other

On/Off Reserve Code – If business operation is:
1 – On-reserve 2 – Off-reserve 3 – On designated (surrendered) land

Regional Programmable Codes: Optional codes for Regional creation of non-system tables.

Comments: This space is reserved for additional information on a business. When entering data for IEDF Loans, Guarantees and/or Contributions, use this space to identify the 'Purpose of Funding'.

EMPLOYMENT DATA

Jobs Created: A new job created during the current fiscal year.

Jobs Maintained: A job which continues in existence from the previous fiscal year.

Full-time Jobs: A job wherein a person is employed on an indeterminate basis to regularly work the full or standard number of hours fixed by the employer.

Part-time Jobs (Temporary/Seasonal): A job wherein a person is employed:
(a) on an indeterminate basis to regularly work only a part of, or less than, the full or standard number of hours fixed by the employer; or
(b) temporarily for a period of time with a predetermined date of employment completion; or
(c) seasonally for an indeterminate period of time which normally coincides with the commencement and completion of work associated with an industry that is in intensive operation once or twice a year. For example, fishing, harvesting, tourist season, etc.

Person-Weeks: A unit of measurement for employment defined as one working week (5 work days) of the full or standard number of hours fixed by the employer for employees in the occupational group in which the employee is employed.

Salaries – Projected: Total salaries/wages to be paid to full-time and part-time employees for the first year; does not include drawings.

Sales – Projected: The total revenue from operations for the first year.

Profits – Projected: The net profit after taxes but before drawings for the first year. If a loss is projected enter 0.

Years to Financial Independence from Government Funding: Estimated number of years to independence from Government funding.

VIABILITY ASSESSMENT – Current: Current fiscal year
Long Term: Next three years
Assess total amount of government loans and contributions required to support existing operations.

1 – If less than $10,000
2 – If $10,000 – $49,000
3 – If $50,000 – $100,000
4 – If more than $100,000
5 – If no longer in operation

IMPACT ASSESSMENT – Band Economy and Band Social: Assess the effect on the Band economy and social structure if the enterprise was not operating.
If socio-economic effects: 1 – Limited to one family 2 – Extend to several families 3 – Extend to the whole community

MANAGEMENT CAPACITY: Refers to capacity to: (a) effectively manage business finances
(b) move business to profitability

1 – If (a) and (b) satisfactory
2 – If (a) only satisfactory
3 – If (b) satisfactory
4 – If (a) and (b) unsatisfactory

FUNDING DATA: If more than one funding use is required per column, attach an additional page.

Funding Use

C1 **Start-Up Capital** – The capital used for starting a 'new' business, i.e. the purchase of equipment, buildings, land, etc.

C2 **Expansion Capital** – The capital funding used for the expansion of an existing business.

C3 **Other Capital** – Capital funding not identified under C1 or C2.

01 **Working Capital (Operating)** – To assist with operating costs and/or enhance cash flow, i.e. inventory, operating expenses, accounts receivable, etc.

02 **Management (Operating)** – To identify the hiring of consultants, staff, etc.

03 **Deficits (Operating)** – To make contributions towards operating deficits.

04 **Other (Operating)** – Operational funding not identified under 01, 02 or 03.

IEDF Guarantee, Loan and/or Contribution Number: These numbers are sequentially assigned and must be entered when providing the funding use, source and dollar amount(s).

Application Approval Date: The date on which the IEDF Loan, Guarantee or Contribution Agreement was signed by the Department.

Guarantee – Interest Rate: Interest rate charged by the lender above prime interest rate as per Form 1008.

Guarantee – Risk: The percentage risk accepted by the Department.

Total Project Dollars: This must equal the sum of all dollar amount(s) entered under the Capitalization and Operating columns.

Formation And Funding Of Sectoral Development Institutions

Operating Policy

1. General

On June 12, 1989 the Federal Government announced the Canadian Aboriginal Economic Development Strategy (CAEDS) as its answer to promoting economic self-reliance and community control over the economic and employment development of aboriginal people. The primary role for DIAND in this strategy is to provide community development, resource access and research and advocacy support to Indian, Inuit and Innu **communities** in their pursuit of economic self-reliance. The logic behind this emphasis on "community" support is that Indians residing on reserve and Inuit residing in communities are generally more disadvantaged than other aboriginal peoples in terms of employment, wealth, access to investment capital, and access to provincial support services.

Consistent with the focus on community control is the need to place a maximum percentage of each region's economic development budget under the direct or indirect control of the communities. With respect to non-community-based sectoral development organizations, this means shifting their accountability away from DIAND towards the communities themselves and, at the same time, fostering their self-reliance.

At the present time, such sectoral development organizations usually generate revenues through one or more of the following:

- direct charging of fees for services, products and publications provided to clients;
- membership dues/ subscriptions;
- specific project funding from government departments and other organizations;
- core funding of operations by bands, tribal councils and other community-based organizations;
- core funding of operations by government departments including DIAND (many sectoral development institutions remain largely dependent on this source of funding).

In moving towards self-reliance, these non-community-based organizations will need to develop a higher degree of commercial viability and, if necessary, increase their level of direct funding from the communities they serve. Only through these means can they ultimately become independent of ongoing federal government operating subsidies (i.e. "core" funding) while continuing to provide cost-effective services to their constituents.

Accordingly, DIAND's continuing role in resource and commercial development requires a clear definition of its relationship to those Indian, Inuit and Innu sectoral development institutions which promote and support commercial activity in the resource and commercial sectors.

This operating policy defines such a relationship in terms of the formation of new sectoral development institutions and the funding of existing ones.

2. Definitions

For the purposes of this operating policy,

a) sectoral development institution means an incorporated (or to be incorporated), non-community-based organization that is mandated to promote and support commercial activity, on behalf of its constituents, in one or more recognized segments of the economy (e.g. forestry, fishing, tourism, agriculture, oil and gas, arts and crafts, entrepreneurship);

b) constituency or constituents means the elected representatives of Indian, Inuit or Innu communities (e.g. band councils, tribal councils) or other groups mandated by them to represent their sectoral interests;

c) constituency support means documented evidence of support from the constituency for the institution's activities, plans and budgets, including a duly passed resolution, minutes of a meeting, or evidence of constituent membership in or subscription to the institution.

3. Policy

3.1 Formation of New Sectoral Development Institutions

a) A DIAND region (or Headquarters in the case of a national institution) **may**, in consultation with the appropriate Indian/Inuit leadership, support the formation of a new sectoral development institution by contributing funds towards the costs of a needs assessment, organization planning and development, and start-up.
Note: Funding support required specifically for the preparation of a "business plan" should be sought from ISTC's Aboriginal Business Development Program.

b) Core or operating funding will **not** be provided to the institution **beyond the first year** of its operations.

c) Applicants eligible to receive such funding include individuals or groups of individuals (usually the prospective officers of the institution) who are proposing to establish an institution in support of Indian, Inuit or Innu sectoral development.

d) The source of funding will be as follows:

i) for institutions representing one or more regional interests, those DIAND regional offices affected (from the residual, i.e. non-CEDO element of the Community Economic Development budget);

ii) for institutions representing national interests, DIAND Headquarters (from funding earmarked for Research and Advocacy).

3.2 Funding of Existing Sectoral Development Institutions

a) DIAND direct core funding to existing sectoral development institutions will be phased out. DIAND regions (and Headquarters) will work with each such institution to assist it in achieving commercial viability and/or obtaining funding support from its constituents. Each region is to establish its own schedule for this phase-out in consultation with the appropriate Indian/Inuit leadership.

b) A DIAND region (or Headquarters in the case of a national institution) **may**, in consultation with the appropriate Indian/Inuit leadership, provide an existing sectoral development institution with a contribution towards the costs of a needs re-assessment or re-organization study.

c) As a region's direct core funding to a sectoral development institution is reduced, the region will consult with its Indian/Inuit leadership to determine the re-allocation of resultant savings to other regional priorities. Headquarters' savings will be redirected towards Resource Development programming.

d) During the phase-out period, direct DIAND core funding to a sectoral development institution is to be based on cost-effectiveness criteria and documented constituency support for the institution's operating plan. The methods for manifesting constituency support may vary across regions and within regions.

4. Application

a) This operating policy is effective immediately and applies to all regions of DIAND including the National Capital Region.

b) In any region where a First Nations committee is in place with a formal mandate to advise on regional CAEDS programming, this operating policy may be amended with the committee's concurrence.

c) This is an interim operating policy which will be formalized as a Program Directive under the Departmental Directives Management System (DMS) in due course.

Economic Development Sector
Warren M. Johnson

Implementation Agreement Between
Indian and Northern Affairs Canada (INAC)
And
Industry, Science and Technology Canada (ISTC)
Concerning
Certain Joint Administrative Arrangements
Involving the Delivery of the CAED Strategy

July 9, 1990

Purpose of this Implementation Agreement

The purpose of this implementation agreement is to achieve full co-operation and co-ordination between INAC and ISTC in the delivery of their respective mandates for native business financing, under the Canadian Aboriginal Economic Development Strategy (CAEDS). Such co-operation and co-ordination are necessary both at Headquarters and in the Regions to: maximize service to clients; achieve economy, efficiency and effectiveness in the administration of public funds; and, ensure that each Department's responsibilities are fully recognized and effectively discharged.

A. Aboriginal Business Development Program (ABDP)

A.1. Project Assessment and Approval

A.1.1 The two Departments agree to implement a "one window" approach to business financing, which establishes ISTC as the Office of Primary Interest for all Aboriginal business proposals.

A.1.2 INAC will refer all clients seeking business development or joint venture financing to ISTC.

A.1.3 ISTC will analyze the financing requirements and funding sources of each project according to the terms and conditions of its Aboriginal Business Development Program.

A.1.4 ISTC will involve INAC at an early stage when the project appears to require, as a last resort, an INAC direct loan or loan guarantee. ISTC will also involve INAC when the project appears to require an on-reserve lease or any other transaction involving INAC approval.

A.1.5 When it is determined and agreed that responsibility for a project rests solely with INAC (e.g. where an INAC direct loan or loan guarantee is deemed to be the sole federal financing required), ISTC will transfer the project file to INAC and advise the client accordingly. INAC will then undertake to deal directly with the client for the duration of the project.

A.1.6 For any project deemed to require joint financing, ISTC will obtain all necessary information to complete its assessment of the project. ISTC will share this information with INAC, in a timely manner, to enable INAC to undertake its own assessment of the project. INAC will, in turn, seek out and obtain supplementary information as necessary to complete its assessment and arrive at a decision, and will share this supplementary information with ISTC.

A.1.7 ISTC will not disburse funds to a project where the project proponent has an outstanding Federal Government direct loan, or a claim resulting from a defaulted Federal Government loan guarantee, for which payments are in arrears and no satisfactory arrangements are in place. Similarly, INAC will not approve loan guarantees or direct loans to project proponents with obligations to Federal Government agencies, including repayable contributions to ISTC, which are in a state of arrears or default.

A.1.8 The two Departments will strive for simultaneous decision making on jointly funded projects. Where this is impractical, ISTC may sponsor the project to the appropriate Board in advance of INAC's decision, but in no case will the Board's decision be communicated to the client by ISTC officers or disbursement made to the project prior to INAC's approval.

A.1.9 In the case of jointly funded projects, ISTC and INAC will develop joint communication strategies with respect to both the client and general public. Neither ISTC nor INAC will officially communicate information on funding decisions taken while the other Department is still considering the application.

A.2. Project Follow-up

A.2.1 Status Indian and Inuit Community Economic Development Organizations (CEDOs), subsidized by INAC under its Community Economic Services program, will be responsible for providing local business advisory services to and on behalf of their communities and community residents.

A.2.2 ISTC will provide or fund aftercare services for its projects, including jointly funded projects, in accordance with the terms and conditions of its Aboriginal Business Development Program.

A.2.3 INAC will be responsible for carrying out, or contracting for, normal administration and collection of its direct loans and guarantee claims paid.

A.2.4 INAC and ISTC will work co-operatively on jointly-funded projects experiencing difficulty, in the interests of both the proponent and the Crown.

B. Aboriginal Capital Corporations (ACCs)

B.1. ISTC is responsible for funding the capitalization and other direct costs of loan fund activities of ACCs.

B.2. INAC is responsible for subsidizing the provision of business advisory services by Indian and Inuit Community Economic Development Organizations in accordance with terms and conditions of its programs. Where no such delivery organization or substitute service exists, INAC and ISTC may work out a funding arrangement to permit an ACC to provide minimal services of this type in a manner that does **not** subsidize its loan activities.

B.3. Once an ACC has become operational and its constituency or market base has been confirmed to the satisfaction of both departments, INAC will withdraw direct lending services in that constituency and inform its Regional Offices and ISTC accordingly. ISTC will in turn notify the ACC. INAC's withdrawal will be part of the legal understanding between ISTC and the ACC for all new or renegotiated ACC agreements.

C. Environmental Assessment and Review Process (EARP)

C.1. Pursuant to the EARP Guidelines Order, INAC and ISTC agree to:

a) jointly review written procedures and project exclusion lists developed by both departments;

b) exchange information on screening assessments made by either department; and,

c) reconcile differences in procedures and assessment criteria via the CAEDS Business Development working group.

C.2. The lead agency for ensuring that the Federal Government's responsibilities for environmental assessment and review are carried out will be as follows:

a) for jointly funded projects, the Department with the highest financial stake;

b) ISTC for projects which it funds solely;

c) INAC for projects which it funds solely or otherwise approves solely through exercising its responsibilities under the *Indian Act* e.g. issuing of leases.

D. Interdepartmental Communications

D.1. When considering a project for financing, each Department will request and obtain input from the other, concerning the proponent's background (e.g. prior business ventures; outstanding debts) and other information relevant to project assessment.

D.2. INAC and ISTC personnel in regions will advise one another on a monthly basis of the names and status of the active projects under their various programs, and will provide one another more detailed information about those projects when requested. Such information, once provided, will be accessible by authorized personnel only, on a need-to-know basis.

D.3. INAC will provide ISTC an account of the funds it flows to bands/tribal councils/commercial development institutions for economic development purposes when requested. Such information, once provided, will be accessible by authorized personnel only, on a need-to-know basis.

D.4. ISTC will provide to INAC on a timely basis information related to existing and proposed Aboriginal Capital Corporations (ACCs) serving status Indian and Inuit interests. Such information will include market coverage as well as any loan limits and special operating features to be observed by the ACC.

D.5. INAC will consult ISTC prior to making any final arrangements relative to selling or contracting-out portions of its direct loan portfolios to ACCs.

D.6. ISTC and INAC will consult one another on any significant policy, research or evaluation work being undertaken relating to Aboriginal business development, and will share all relevant information both during and on completion of such work.

D.7. An INAC representative will participate on each of the three (3) ISTC Aboriginal Boards (national, eastern and western); an ISTC representative will participate on the INAC Headquarters Loan Committee.

D.8. INAC and ISTC management will seek opportunities on a regular basis to jointly review strategic goals and directions, the effectiveness of program delivery and the exchange of key information. These reviews will take place at both headquarters and in the regions and, when appropriate, on an national basis. The first priority will be to clarify responsibilities for "pre-commercial" activities in resource development projects.

E. Administration

E.1. The interdepartmental (ISTC/INAC/CEIC) CAEDS Management Group consisting of the ADM Committee, the Headquarters Working Groups, and the regional "mirror" committees will oversee the implementation of this Agreement.

E.2. This Agreement may be amended from time to time by mutual consent of the two participating Departments.

H.A. Reynolds
Assistant Deputy Minister
Aboriginal Economic Programs
ISTC

Warren M. Johnson
Assistant Deputy Minister
Economic Development
INAC

Aboriginal Business Development and Joint Venture Program

Terms And Conditions

Purpose

1. The purpose of these terms and conditions is to set forth the policies and criteria by which the Aboriginal Business Development and Joint Venture Program of the Canadian Aboriginal Economic Development Strategy is to be administered.

Interpretation

2. In these Terms and Conditions,

"application" means a written request by an eligible applicant to the Minister for assistance, including an outline of the project in reasonable scope and detail.

"capital costs" means such costs as in the opinion of the Minister are the reasonable and proper direct costs of design, acquisition, construction, expansion, modification, conversion, transportation, installation and insurance (during construction) of fixed assets, as well as the cost of licensing and franchising fees, incurred by the eligible applicant on the project and includes the cost of directly related infrastructure development, but does not include:

(a) cost related to assets which, in accordance with generally accepted accounting principles, are normally considered a charge against income in the year in which they are acquired;

(b) goodwill; or

(c) the cost of any asset to the extent that, in the opinion of the Minister, it exceeds the fair market value of the asset.

The Minister may consider a capital lease as an acquisition for the purposes of this program, subject to any conditions that he may stipulate.

"commercial operation" means a manufacturing, service or other commercial activity, including primary resource activity.

"eligible costs" means costs directly related to the project and necessary to carry it out and, unless otherwise provided herein, includes capital costs, operating costs, and the costs of related infrastructure development, and for the purposes of sections 5, 6 and 13, cost of shares, but does not include the costs of construction of, purchase of, or improvements or extensions to residential properties including single family or multi-unit residential buildings, except in the case of micro-enterprise projects.

"equity" means the aggregate of:

(a) the eligible applicant's

  (i) share capital,

  (ii) proprietor's capital accounts, or

  (iii) partner's capital accounts;

(b) the eligible applicant's earned, contributed or other surplus;

(c) the eligible applicant's deficit accounts not considering operational losses allowed by the Minister;

(d) loans to the applicant by shareholders if the loans are subordinated to all other liabilities for a period specified by the Minister;

(e) where the Minister agrees, loans to the applicant by persons other than the shareholders, if the loans are subordinate to all other liabilities for a period specified by the Minister; and

(f) where the Minister agrees, an amount representing the eligible applicant's unpaid labour valued at prevailing market rates but not exceeding the sum of amounts included in paragraphs (a) to (e);

less any amounts included in paragraphs (a) to (f) that, in the opinion of the Minister, unreasonably inflate net worth.

The Minister may consider as equity, investments made by Aboriginal capital corporations and Aboriginal economic development institutions, even if the funds were originally sourced from government.

"infrastructure development" means a service or other activity that provides a framework for the establishment, acquisition, modernization or expansion of one or more commercial operations and may include construction of access roads, power lines, sewers, water and ancillary or incremental waste treatment or other similar facilities, but does not include:

(a) the cost of land, or

(b) community infrastructure development such as construction and maintenance of roads, sewers and water treatment plants, public office buildings, recreation and friendship centres, gaming houses, cultural centres, public halls, skating rinks, etc.

"operating costs" means costs related to a commercial operation which, according to generally accepted accounting principles, would normally be considered a charge against income in the year in which they were incurred.

"repayable contribution" means a contribution that is repayable, in whole or in part, if conditions which the Minister stipulates come into being.

Program Objectives

3. The objective of the program is to increase commercial enterprise activity by Aboriginal Canadians as a major step towards enhancing their economic self-reliance, by providing financial and advisory assistance at various stages and for several aspects of enterprise development.

It is expected that Aboriginal Canadians can gain substantial advantages from this program in the form of an increase in the rate of enterprise formation, as well as greater survival and growth, and better performance of enterprises. The Aboriginal population will also benefit from an increase in employment opportunities and in many instances, from improved availability of goods and services.

Eligible Applicant

4. Eligible Applicant means an Aboriginal individual, or an association, partnership, co-operative, for-profit or non-profit body corporate, and legal trustee or other legal entity that is majority-owned or controlled by Aboriginal people, but does not include an entity having as its main object the furtherance of a charitable or religious purpose.

Eligible Business Projects

Commercial Ventures

5. (1) The Minister may make a contribution to an eligible applicant for the eligible costs of a project to:

(a) establish, expand or modernize a commercial operation;

(b) acquire a commercial operation, whether by share purchase or by asset purchase.

(2) The acquisition of a commercial operation under subsection (l)(b);

(a) must be a bona-fide transaction by an eligible applicant dealing at arm's length to the present owner;

(b) must not have been contrived for the purpose of an application under the program; and

(c) must be at a price that is not in excess of the fair market value of the assets or shares.

(3) A contribution under this section will not exceed the lesser of:

(a) $10 million; and

(b) 60% of capital costs and the cost of related infrastructure development plus 75% of operating costs in year 1, 50% in year 2 and 25% in year 3.

(4) Notwithstanding subsection (3), if the project takes place in a community which is isolated where economic opportunities and the ability to raise capital are very limited, a contribution may reach the lesser of:

(a) $10 million; and

(b) 90% of capital costs and the costs of related infrastructure development plus up to 75% of the operating costs in year 1, 50% in year 2, and 25% in year 3. After each year's operations, the Minister will review the performance and may modify the contribution based on operating costs as follows: up to 75% in year 2, 50% in year 3, and up to 25% in years 4 and 5.

(5) The amount of the contribution under this section towards the cost of related infrastructure development will not exceed $1 million.

Joint Ventures

6. (1) The Minister may make a contribution to an eligible applicant who enters into agreement with one or more non-Aboriginal individuals or legal entities to undertake a project as defined in subsections 5 (1) and (2) for the eligible applicant's share of the eligible costs of such project.

(2) The Minister, in determining whether to make a contribution under this section, will take into consideration:

(a) assurance of active Aboriginal participation in the direction, management and operations of the venture;

(b) training and employment plans that guarantee access by Aboriginal people to specified professional and management positions over an agreed time frame;

(c) business expertise and performance of the non-Aboriginal party.

(3) A contribution under this section will not exceed those amounts as are set out in subsections 5(3), (4) and (5).

Innovation

7. The Minister may make a contribution to an eligible applicant not to exceed the lesser of $10 million and 60% of the eligible cost (not including the cost of infrastructure development) of developing or demonstrating scientifically and technically feasible, products, services or production processes which offer a good potential for exploitation by Aboriginal people.

Marketing

8. The Minister may make a contribution to an eligible applicant not to exceed the lesser of $1 million and 60% of the eligible costs (not including capital or infrastructure development costs) of an activity aimed at increasing the marketing, promotion and distribution of Aboriginal products and services including:

(a) the publication and dissemination of catalogues or other literature;

(b) market research and analysis;

(c) advertising; and

(d) trade shows, seminars or other similar events.

Other Eligible Projects

Pre-Commercial and Infrastructure Development

9. (1) The Minister may make a contribution to an eligible applicant in respect of the cost of:

(a) infrastructure development related to business development, but not related to a specific eligible business project, and

(b) determining the size of a given resource or a pilot project related to and prior to the undertaking of a proposed project that would likely be eligible for a contribution under sections 5 or 6 and represents a significant opportunity.

(2) The maximum amount of assistance under this section will not exceed the lesser of 90% of eligible costs and $10 million.

Advisory Services, Training and Aftercare

10. (1) The Minister may make a contribution to an eligible applicant for the cost of engaging qualified consultants to conduct feasibility studies, initial environmental evaluation studies, consultation and negotiations and to assist in the development of business plans in respect of proposed business projects that would likely be eligible for assistance under these Terms and conditions.

(2) The maximum amount of assistance under this section is the lesser of 75% of the cost of engaging qualified consultants and $250,000.

11. (1) The Minister may make a contribution to an eligible applicant for the cost of engaging qualified consultants to provide expert advice in relation to a project following the awarding of a contribution to a business project under these Terms and Conditions or in relation to a project previously funded under the Native Economic Development Program, Northern Development Agreements or Special Agricultural and Rural Development Agreements, ("aftercare").

(2) The maximum amount of assistance under this section is 75% of the cost of engaging qualified consultants up to $1 million per project, and 100% of such cost when it is necessary to protect the interests of the Crown.

12. (1) The Minister may make a contribution to an eligible applicant for the cost of training in entrepreneurship, management, technical and vocational skills of individuals directly involved in a business project receiving assistance under these Terms and Conditions, including reasonable related living and travel expenses.

(2) The maximum amount of assistance under this section is the lesser of 75% of the costs of training and $100,000.

Micro-Enterprises

13. (1) The Minister may make a contribution to an eligible applicant in respect of the eligible costs of establishing, expanding, modernizing or acquiring, by means of purchase of assets or shares, very small commercial operations provided that the eligible applicant submits information that enables the Minister to assess:

(a) that demand exists for the product or services;

(b) that the project will generate an improvement in the capacity of the eligible applicant to earn income that is significant in relation to the cost of the project; and

(c) the eligible applicant's ability to successfully undertake the project.

(2) A contribution under this section will not exceed the lesser of $15,000 and 90% of project costs.

(3) Until September 1, 1991 or an earlier date to be determined by the Minister, assistance under this section is available only to businesses located in certain areas of Canada to be designated by the Minister.

Research and Advocacy

14. (1) The Minister may make a contribution to an eligible applicant for the cost of studies, conferences, publicity and similar activities that have as a main objective further Aboriginal economic and business development.

(2) The maximum amount of assistance under this section is 100% of eligible costs up to $250,000.

Conditions Of Assistance

15. Notwithstanding any provision of these Terms and Conditions, the Minister shall not make a contribution unless the business project with respect to which the contribution is being provided is commercially viable within reasonable bounds of risk as determined by the Minister.

16. (1) Notwithstanding any other provision in these Terms and Conditions, the Minister may not make a contribution in respect of costs for which an eligible applicant has entered into a legal commitment prior to the coming into force of this program or prior to the receipt of an application, whichever is later.

(2) In this section, "legal commitment" does not include an option to purchase or to hire, or an option for a capital lease.

17. In determining the amount of financial assistance to be provided to an eligible applicant for a business project under sections 5 through 8, the Minister shall consider the following:

(a) the objectives and anticipated benefit of the project with respect to Aboriginal economic development;

(b) the demonstrated management capacity and business expertise of the eligible applicant in relation to the project;

(c) the ability of the eligible applicant to obtain commercial financing for the project;

(d) the amount of any federal, provincial or municipal assistance or tax credit that is likely to be relevant to the project;

(e) the resources of the eligible applicant that could reasonably be expected to be contributed to the project;

(f) the probable cost of each job for an Aboriginal person likely to be created or maintained as a result of the proposed project;

(g) the probable impact of the proposed project on other commercial operations;

(h) the impact of the proposed project on the environment;

(i) the relationship of the project to federal government national and regional economic strategies and priorities.

18. Every eligible applicant applying for assistance for a project under sections 5 through 9 shall:

(a) provide the Minister with any information in his possession that is likely to assist the Minister in considering the factors listed in section 17;

(h) provide the Minister with a comprehensive business plan for the project.

Program Administration

Delegation of Authority

19. The Assistant Deputy Minister, Native Economic Programs is responsible for administering the program in accordance with these Terms and Conditions under the authority of the Deputy Minister or Associate Deputy Minister. Authority for the approval of projects varies according to the dollar value, percentage level of assistance and delegations as determined by the Minister.

20. Claims for payments will be certified by officials of the department so authorized in the departmental delegation of authority manual.

Payment Procedure

21. The Minister shall not make any contribution or pay any part thereof in respect of eligible costs that are not reasonable and proper direct costs of a project substantiated by satisfactory supporting documentation.

22. The Minister shall not make a contribution to an eligible applicant in respect of the cost of the services of any consultant or other professional that is not at arm's length from the applicant.

23. While the project is being carried out, the Minister shall pay the eligible applicant, on the basis of claims for payment submitted by the eligible applicant in respect of costs incurred, not more frequently than once per month.

24. Payments made by the Minister to the eligible applicant per section 23 shall not exceed 90% of the authorized contribution prior to the completion of the project.

25. Every claim for payment shall have supporting documentation that is satisfactory to the Minister.

26. Every claim for payment shall be certified by a representative of the eligible applicant or other person satisfactory Minister.

27. The Minister may require that any claim for payment be certified by the eligible applicant's external auditor or by an auditor approved by the Minister.

28. After verifying that the project has been completed to his satisfaction, and that all incurred costs have been paid, the Minister shall pay any outstanding amount of the contribution.

29. The Minister may make advance payments according to the procedures established by the Treasury Board if such payments are essential for the successful completion of

the project, but such payments may total not more than 90% of the authorized contribution before the completion of the project.

30. If the eligible applicant is required, pursuant to the contribution agreement with the Minister, to provide documentation certified by an external auditor. The Minister may, in addition to the amount otherwise payable under the contribution agreement, contribute to the cost incurred by the eligible applicant for this purpose, at a percentage that does not exceed the agreed contribution percentage as set out in the contribution agreement.

31. For a contribution under sections 10, 11, 12, and 14, the Minister, at the request of the eligible applicant, may make joint payments to the eligible applicant and to the consultant in respect of costs incurred.

Repayment Procedure

32. (1) The Minister may determine that a contribution be a repayable contribution if, in his opinion, this is in the interest of the program. The Minister shall stipulate the conditions on which the contribution will be repayable. These conditions may include repayability based on financial performance of the project.

(2) The number of instalments, amounts and due dates for repayment of a repayable contribution will be determined in such a way that the commercial viability of the project would not be jeopardized.

(3) If the conditions of repayability have not yet been satisfied, the Minister may amend the terms of the agreement to alter the terms of repayment or remove the requirement to repay.

Project Auditing

33. Each contribution agreement will establish the right of the Government of Canada to undertake an audit. The responsibility centre manager for the project is responsible for determining whether recipients have complied with the terms and conditions of the contribution agreement. This responsibility includes the audit of recipients when deemed necessary.

Conditions Of Support

34. (1) With respect to a contribution under sections 5, and 6, and for pre-commercial projects under section 9, the Minister shall specify a minimum amount of equity and shall not make a contribution unless, on or before the date of the first payment, the applicant attains the level of equity specified by the Minister.

(2) The Minister shall not specify a level of equity under subsection (1) that is less than the aggregate of:

(a) 10% of the capital cost of the project and/or the cost of acquisition of shares; and

(b) 10% of the net book value of the eligible applicant's fixed assets at the time of the application. If the eligible applicant is an individual, the net book value pertains only to fixed assets of the commercial operation.

(3) The eligible applicant shall maintain the level of equity specified by the Minister until the completion of the project and for twelve months thereafter except insofar as it is reduced by operational losses or other reductions to which the Minister has given his prior written consent.

(4) Notwithstanding subsection 34(1), when the Minister is satisfied that special circumstances exist, he may extend the deadline for provision of all or part of the required equity to the date of the final payment.

35. It is a condition of every contribution under these Terms and Conditions that for a period of 24 months following the completion of a project, or such longer period as the Minister may specify in writing:

(a) no significant change in ownership, financing, location, size of facilities, federal, provincial or municipal assistance occur in respect of the project without prior written consent of the Minister;

(b) no assets in respect of which a contribution has been made may be sold or otherwise disposed of or shall cease to be used for the purposes authorized by the contribution agreement except in the ordinary course of business, without the prior written consent of the Minister.

36. It is a condition of any contribution made under sections 5, 6, and 13, except a contribution made relative to the replacement of an existing commercial operation by a new commercial operation the same site or the relocation in whole or in part of a special operation, that during the project and for a period ending twelve months following completion of the project, the eligible applicant and any affiliated commercial operation maintain the level of production, services or activities of their commercial operations similar to that being assisted, at a level specified by the Minister.

37. The Minister may require the eligible applicant to submit periodic reports in a form satisfactory to the Minister commencing three months after the completion date of the project and each year thereafter for a period of three years.

38. The Minister may require that his representative:

    (a) be granted the right to attend as an observer at such meetings as the Minister may deem necessary;

    (b) be granted reasonable access to the eligible applicant's premises to inspect and assess the progress and results of the project, to conduct such independent audits and evaluations as well as to inspect such books accounts and records as the Minister may require.

39. It is a condition of every contribution under sections 5 through 9 that, for a period of 36 months following the completion of the project, the eligible applicant shall:

    (a) preserve and keep available for audit and examination by the Minister, proper books, accounts and records of the costs of the project; and

    (b) supply, promptly on request, such data in respect of the project and its results as the Minister may require for statistical purposes.

Recovery Provisions

40. (1) Where a contribution is made to an applicant under this program and, for any reason,

    (a) the applicant is not entitled to the contribution,

    (b) the amount of the contribution exceeds the amount to which the applicant is entitled,

    the amount of the contribution or excess, as the case may be, constitutes a debt due to Her Majesty in right of Canada and is subject to recovery as such from the applicant;

    (2) Where a contribution is made to an applicant under this program and, for any reason,

    (a) the applicant is in default under the agreement, or

    (b) the applicant has otherwise failed to meet or contravened a term or condition;

    the Minister, taking into account the circumstances giving rise to the default or contravention, may amend the agreement or may demand the repayment of all or part of the contribution and once such a demand is made, the amount demanded is a debt due to Her Majesty in right of Canada and is subject to recovery as such from the applicant.

(3) Notwithstanding subsection 40(2), the Minister may determine that the amount of the contribution will not be recovered:

(a) in the case of recovery due to damage to or destruction of all or part of a facility, if the assets destroyed or damaged have been replaced or repaired or will be replaced or repaired without undue delay;

(b) in the case of recovery due to the sale or other disposition of a facility to another eligible applicant, if

(i) the facility will continue to be used in substantially the same manner as contemplated by the applicant at the time of the application,

(ii) a successor will carry out the remaining terms and conditions of the Minister's agreement with the applicant, and

(iii) the applicant and its successor, at or about the time control over the facility is assumed by the successor, assume joint and several liability to repay any amounts received from the Minister, in the event of a subsequent cessation of use without the prior written consent of the Minister of any of the assets in respect of which the contribution was made;

(c) where, due to circumstances beyond the control of the applicant that could not reasonably have been anticipated when the Minister agreed to make the contribution,

(i) the applicant has been forced to make a significant change in the project,

or

(ii) the project has not been completed.

(4) When the events described in subparagraphs (2)(a) and (b) occur prior to the full disbursement of the contribution, the Minister may also agree to pay the balance of the contribution to the applicant or to the successor.

Program Evaluation

41. (1) An Evaluation Framework will be completed within 18 months of Treasury Board approval of the terms and conditions. The Framework will include: a profile and model for the program, an evaluation design specifying the

potential evaluation issues and questions, an outline of indicators of program impacts and effects and the information and data to be collected prior to and during the evaluation study; and, the anticipated schedule for conducting the evaluation study.

(2) The object of evaluations will be to measure the overall effectiveness of the program in meeting its stated objectives. It will involve examination of a representative sample of businesses assisted under the program. The examination may include, but is not limited to a review of the critical phases in the administration and delivery of the program, the nature of impacts and effects from its implementation on individuals, communities, etc.

Term Of Program

42. These terms and conditions will remain in effect until revisions requested by the Department or by Treasury Board are approved.

Aboriginal Capital Corporations
Terms and Conditions

Purpose

1. The purpose of these Terms and Conditions is to set forth the policies and criteria by which the Aboriginal Capital Corporations (ACC) Program of the Canadian Aboriginal Economic Development (CAED) Strategy is to be administered.

Interpretations

2. In these Terms and Conditions,

"capital costs" means office, leasehold improvements, computer facilities and equipment required in the provision of the financial services and directly related advisory services;

"capitalization costs" means the amount of money required by an eligible applicant as a reserve to provide financial services;

"development costs" means expenditures related to:

(a) studies concerning the feasibility and analysis of projects that are likely to be eligible for a contribution under this Program;

(b) assessments related to an applicant's existing operations that are likely to result in improvements to operating efficiency and effectiveness in connection with the project; "eligible costs" means costs in respect of a project that are associated with the analysis, planning, developing, establishing, expanding and diversifying the provision of financial services and their directly related advisory services by an eligible applicant to Aboriginal businesses, and shall be classified as development, start-up, operating, capital and capitalization costs;

"financial services" means loans, loan guarantees, bridge financing, venture capital, equity financing, leasing, surety bonding or other similar commercial financial services provided to Aboriginal businesses;

"operating costs" means expenditures incurred by the applicant related to the administration of providing financial services or directly related advisory services to Aboriginal businesses;

"project" means an activity which is eligible for assistance under this Program which includes the establishment or expansion or diversification of Aboriginal capital corporations, the provision of related advisory services, and the development and support for a national association of capital corporations;

"repayable contribution" means a contribution that is repayable, in whole or in part, at such time and on fulfilment of such conditions as provided by these Terms and Conditions or stipulated by the Minister;

"start-up costs" means costs required by the applicant in respect of satisfying the conditions of the Contribution Agreement to be fulfilled prior to disbursement of capitalization dollars.

Program Objectives

3. (1) The objective of the ACC Program is to provide assistance for the establishment, expansion and diversification of self-sustaining Aboriginal owned and controlled capital corporations throughout Canada that are functionally complementary to the mainstream financial sector.

(2) This will enhance the access to capital for Aboriginal businesses that have difficulty in obtaining conventional commercial financing. Ultimately, it will reduce the dependency on government assistance.

(3) The Program will foster orderly growth and development of the network of commercial loan corporations owned and controlled by Aboriginal people that have to date been funded by ISTC (NEDP) Element I, DIAND's Institutional Development Program and CEIC's Community Futures Program.

Eligibility Criteria

4. Eligible Applicant

"Eligible applicant" means an association, a partnership of associations, a co-operative, for-profit or non-profit body corporate, or other legal entity that is majority owned and controlled by Aboriginal people and which is incorporated or will be incorporated under federal, provincial, or territorial legislation that:

(a) has as one of its objectives to assist and further Aboriginal businesses through the provision of financial services;

(b) operates or plans to operate in the commercial segment of the financial services market;

(c) for a newly established corporation, has the potential to become self-sustaining and viable, to become profitable, and maintain profitability;

(d) for an established institution seeking expansion or diversification assistance, has a favourable record with respect to 4 (c).

Eligible Projects

Establishing a Capital Corporation

5. (1) The Minister may make a contribution to an eligible applicant for the eligible costs of establishing a new capital corporation that provides commercial loans and loan guarantees to Aboriginal businesses.

(2) In determining the amount of contribution under subsection 5(1), the Minister shall consider the following:

(a) demonstrated market used for a loan program with a capital base that assures the capacity to earn sufficient income to cover operating costs and an adequate loan loss reserve;

(b) the potential to achieve and maintain break-even on operations within five years;

(c) demonstrated management and service delivery capacity;

(d) regional impact of services provided.

(3) A Contribution under this section will not exceed the lesser of 100% of eligible costs and $10 million.

(4) The Minister may make a contribution to an eligible applicant of up to the lesser of $250,000 and 90% of the costs of engaging qualified consultants to perform feasibility analyses, market assessments, consultations or other requirements with respect to projects under subsections (1).

Expanding a Capital Corporation

6. (1) The Minister may make a contribution to an eligible applicant for expansion of capitalization and related operating costs so as to fund the growth in market demand for an existing financial service.

(2) In determining the amount of contribution, the Minister shall consider the following:

(a) a demonstrated market demand for an increased volume of the specific financial service;

(b) a favourable record of the institution's operating performance which includes acceptable arrears and loss rates, operating cost ratios, asset quality tests, management capacity and cost-effective service delivery; and

(c) the appropriate level of capitalization that with good management would enable the service to be provided in a self-sustaining manner.

(3) No single contribution under this section shall exceed the lesser of 100% of eligible cost and $10 million and the total of all contributions for expansion to an eligible applicant shall not exceed $30 million.

(4) If in the opinion of the Minister the institution has reached self-sustainability, the contribution under this section shall be repayable.

(5) The Minister may make a contribution to an eligible applicant of up to the lesser of $250,000 and 75% of the costs of engaging qualified consultants to perform strategic plans, market assessments and evaluations with respect to projects under subsection 6(1).

Diversification of a Capital Corporation

7. (1) The Minister may make a contribution to an eligible applicant for eligible costs to enable an established institution to provide one or more financial services not already offered to its clientele.

(2) Pursuant to subsection 7(1), the Minister shall consider proposals for diversification on the basis of guidelines determined in consultation with the Department of Finance.

(3) In determining the amount of contribution under this section, the Minister shall consider the following:

(a) demonstrated and consistent corporate full cost recovery on existing financial service activity;

(b) demonstrated market need for the new financial service;

(c) potential to achieve and maintain break-even operations on the new financial service within five years, except in the case of equity financing such as venture capital services;

(d) regional impact of the services provided.

(4) A contribution under this section will he non-repayable and will not exceed the lesser of 100% of eligible costs and $10 million.

(5) The Minister may make a contribution to an eligible applicant up to the lesser $250,000 and 75% of the costs of engaging a qualified consultant to perform feasibility analyses, strategic plans, market assessments or evaluations with respect to projects under subsection 7(1).

Related Advisory Services

8. (1) The Minister may make contributions to an eligible applicant for the eligible costs of establishing or expanding a service that provides related advisory services to Aboriginal businesses where such advice is not sufficiently provided elsewhere.

(2) Related advisory services may include but are not limited to any of the following:

(a) financial advice;

(b) financial planning;

(c) investment or risk management;

(d) accounting and auditing;

(e) brokering and liaison with the financial community;

(f) assessment of business plans;

(g) guidance or counselling to businesses with respect to the financial aspects of their operations.

(3) In determining the amount of contribution under this section, the Minister shall consider the following:

(a) demonstrated market need;

(b) evidenced professional and delivery capacity;

(c) for established institutions, a favourable record of the institution's operating performance, a favourable record in portfolio management as measured by standard investment rules, and cost effective financial services delivery;

(d) the ability and willingness of the applicant to cover his share of the cost of the eligible advisory service.

(4) A contribution under this section will not exceed the lesser of 75% of eligible costs and $250,000 per annum for a period not to exceed five years.

National Association

9. (1) The Minister may make a contribution for development, start-up and operating costs of establishing one National Association to coordinate the activities of Aboriginal Capital Corporations, to provide cost effective common services and to represent Aboriginal Capital Corporations in fostering improved linkages with mainstream financial institutions.

(2) The Minister may make a contribution under this section to an eligible applicant in an amount not to exceed the lesser of 90% of eligible costs and $350,000 per annum for a maximum period not to exceed five years. Where justified the Minister may agree to pay up to 100% of eligible costs in the first years of the contribution providing that the average is maintained at 90% through the duration of the contribution period.

Ineligible Costs

10. Notwithstanding any provision of these Terms and Conditions, the following costs are **not** eligible under the ACC Program:

(a) infrastructure costs;

(b) capital costs for the purchase of land or buildings;

(c) costs related to the business of deposit-taking and provision of personal or consumer financial services;

(d) costs of providing advisory or extension services associated with community economic development or entrepreneurship where such services are delivered to clients who are eligible for funding under the Department of Indian Affairs and Northern Development.

Information Requirements

11. Every eligible applicant shall provide to the Minister:

(a) a written proposal including a comprehensive and detailed business and financial plan that specifically addresses the criteria in subsections 5(2), 6(2), 7(3), 8(3), or 9(1);

(b) corporate documents as the Minister considers necessary, including articles of incorporation, corporate by-laws and related instruments;

(c) a policy and procedures manual which describes in detail the institution's client application and approval process, portfolio management guidelines, general policies, organization structure and administration, and shareholder accountability;

(d) in the case of expansion and diversification, an independent, third-party quality assessment of the existing portfolio; and

(e) any information that is likely to assist the Minister in considering financial assistance under the ACC Program.

Program Administration

Delegation of Authority

12.

(1) The Assistant Deputy Minister, Native Economic Programs is responsible for administering the ACC Program in accordance with these Terms and Conditions under the authority of the Deputy Minister or Associate Deputy Minister. Authority for the approval of applications varies according to the dollar value, percentage level of assistance and delegations as determined by the Minister.

(2) Claims for payments will be certified by officials of the department so authorized in the departmental delegation of authority manual.

Payment Procedure

13. The Minister shall not make any contribution or pay any part thereof in respect of eligible costs that are not reasonable and proper direct costs of a project substantiated by satisfactory supporting documentation.

14. Notwithstanding any other provisions of these Terms and Conditions, the Minister may not make a contribution in respect of costs for which an applicant has entered into a legal commitment prior to the coming into force of the ACC Program or prior to the receipt by the Minister of the application for a contribution, whichever is later. For

the purpose of this section, "legal commitment" does not include an option to purchase, to hire, or an option for a capital lease.

15. The Minister shall not make a contribution to an eligible applicant in respect of:

    (a) the cost of the services of any consultant or other professional that is not at arm's length from the applicant; and

    (b) any capitalization costs where there is the potential for applicant self = dealing or conflicts of interest in the provision of financial services or where approved guidelines governing such action are in the opinion of the Minister not observed.

16. (1) For contributions under sections 5, 6, and 7, the Minister may make advance payments for eligible costs, each for a period not to exceed 6 months.

    (2) The Minister will make subsequent advance payments on account of a contribution only on the basis of written claims which include the institution's actual and pro forma financial statements, costs incurred and paid and satisfactory evidence of performance as referenced by quarterly monitoring reports and externally audited annual financial statements.

    (3) An accounting for the initial and all subsequent advances shall be required no later than 45 days after the end of the period for which an advance has been made. Periodic reconciliation and adjustment of outstanding advances shall be required such that the outstanding advances never exceed cash requirements for a period of six months.

    (4) Interest accruing or to be paid to the eligible applicant as a consequence of the receipt of the advance payment must be separately accounted for and may be retained by the institution for the purpose of offsetting administrative costs related to the provision of those financial services as stipulated by the project.

    (5) Notwithstanding Year-End Considerations set out in chapter 9.4 of the Guide on Financial Administration, advances made under subsections 16(1) and 16(3) may be made for expenditures to be incurred in a subsequent fiscal year.

    (6) For contributions under section 8, payments will be on the basis of documented claims for costs incurred not more frequently than once per month. Payments made by the Minister to the eligible applicant under section 8 shall not exceed 90% of the authorized contribution prior to the completion of the project.

Repayment Procedure

17. (1) The Minister may determine that a contribution be a repayable contribution if in his opinion this is in the interest of the program. The Minister shall stipulate the conditions of repayability.

(2) The number of instalments, amounts and due dates for repayment of contributions will be determined specifically for each case in such a way that the financial service operations would not be jeopardized. Repayment may normally commence no sooner than 2 years and terminate not more than 12 years from execution of the Contribution Agreement.

(3) If the conditions of repayability have not yet been satisfied, the Minister may amend the terms of the agreement to alter the terms of repayment or remove the requirement to repay.

Project Auditing

18. (1) The responsibility for project auditing rests with the ACC Program. This will be undertaken by:

(a) officer review of applicant-produced quarterly progress reports and financial statements;

(b) officer site visits to inspect the books, accounts and records and conduct independent audits and evaluations whenever it is deemed necessary;

(c) annual financial audits undertaken by DSS Audit Services Bureau or other auditors satisfactory to the Minister; and

(d) officer review of the applicants' externally audited financial statements and interview with those auditors as required.

(2) Project auditing will take place throughout the contribution disbursement period. Further auditing may take place up to twelve (12) years from the execution of the Contribution Agreement based on information requested by the Minister pursuant to subsections 20(a) and (b).

(3) The eligible applicant shall submit to the Minister progress reports and financial statements within forty-five (45) days of the end of each corporate fiscal quarter in such form and in such detail as is required to assess performance as outlined in subsections 5(2), 6(2), 7(3), 8(3) or 9(1).

(4) The eligible applicant shall submit to the Minister within ninety (90) days from the end of its fiscal year or any longer period satisfactory to the Minister, a

copy of its annual audited financial statements, a copy of all documents submitted to any regulatory body having jurisdiction over the applicant, and an annual progress report on the project as required to assess performance as outlined in subsections 5(2), 6(2), 7(3), 8(3) or 9(1).

Conditions Of Support

19. It is a condition of every contribution that:

    (a) capitalization costs funded by the ACC Program shall not be deemed as qualifying capital for a deposit-taking institution in the event that the eligible applicant applies through the appropriate government or regulatory body for establishment of a deposit-taking facility;

    (b) no assets in respect of which a contribution has been made shall be sold or disposed of or shall cease to be used for the purpose authorized by the contribution agreement, except in the ordinary course of business or unless otherwise defined by the contribution agreement, without the prior written consent of the Minister;

    (c) no significant change in ownership, management, financing, location or any deemed substantive alteration to the project can occur, without the prior written consent of the Minister;

    (d) the process of selection of the eligible applicant's Board of Directors and the composition of such Board are satisfactory to the Minister and that the Board may have no more than one Director who also serves as a Member of the Board of Directors of any shareholders of the eligible applicant.

20. It is a condition of every contribution that:

    (a) throughout the disbursement period, and for a period of twelve (12) years from the execution of the Contribution Agreement an eligible applicant shall:

        (i) take all necessary actions to comply with the terms and conditions of the Contribution Agreement;

        (ii) preserve and keep available for audit and examination the Minister, proper books, accounts and records of the project; and

        (iii) supply a periodic report and promptly on request, any such other information as the Minister may require;

(b) the eligible applicant will maintain a separate accounting for each of the various eligible cost categories funded which also must include interest on any advances made under the contribution agreement.

21. It is a condition of every contribution that:

(a) all financial services provided by an eligible applicant will be at all times provided in compliance with the policy and procedures manual that must initially meet the Minister's satisfaction and to which substantive changes must be approved by prior written consent of the Minister;

(b) the eligible applicant will comply with the requirements of a performance monitoring regime as specified by the Minister respecting its portfolio management, delivery of services, downstream benefits achieved to clients and on-going market needs; and

(c) all but the first disbursement of funds under a multi-year contribution agreement will be conditional upon satisfactory performance as measured by the specified monitoring regime.

22. The Minister may require that his representative:

(a) be granted the right to attend as an observer at such meetings as the Minister may deem necessary;

(b) be granted reasonable access to the applicant's premises to inspect and assess the progress and results of the project, to conduct such independent audits and evaluations as well as to inspect such books, accounts and records as the Minister may deem necessary.

Recovery Provisions

23. If an event of default has occurred, or in the opinion of the Minister is likely to occur, the Minister may exercise any or all of the following remedies:

(a) suspend any obligation by the Minister to contribute or continue to contribute to the eligible costs of the project, including any obligation to pay any amount owing prior to the date of such suspension;

(b) terminate any obligation by the Minister to contribute or continue to contribute to the eligible costs of the project, including any obligation to pay any amount owing prior to the date of such termination; and

(c) require the institution to repay part or all of the contribution, together with interest received as a result of advance payments, forthwith to the Minister and that amount is a debt due to Her Majesty in Right of Canada and may be recovered as such.

Program Evaluation

24. An Evaluation Framework will be completed within eighteen (18) months of Treasury Board approval of these Terms and Conditions. The object of evaluations will be to measure the overall effectiveness of the ACC Program in meeting its stated objectives. The examination may include, but is not limited to a review of each eligible project of the ACC Program, the impacts and effects from its implementation on institutional viability, Aboriginal business access to capital, Aboriginal economic self-reliance and dependency on government assistance and the role of the mainstream financial sector. This will involve examination of a representative sample of institutions and their client businesses so assisted.

Terms Of Program

25. These Terms and Conditions will remain in effect until changes requested by ISTC or Treasury Board are approved.

Aboriginal Capital Corporations

October 1990

Financial Institutions

Alberta Indian Investment Corporation (AIIC)
EDMONTON, Alberta
PHONE: (403) 428-6731
FAX: (403) 425-9018

Mr. Fred Gladstone, President
Mr. Bill Green, General Manager

All Nations Trust Company (ANTCO)
KAMLOOPS, British Columbia
PHONE: (604) 828-9770
FAX: (604) 372-2585

Ms. Ruth Williams, President
Mr. Lary Peeters, General Manager

Apeetogosan (Metis) Development Inc.
EDMONTON, Alberta
PHONE: (403) 452-7951 or 1-800-252-7963
FAX: (403) 454-5997

Mr. Gary Gairdner, Chairman
Mr. Ron Stevenson, General Manager

Association of Reserves for Improving Social Economics (ARISE)
ST. THOMAS, Ontario
PHONE: (519) 633-6060
FAX: (519) 633-9407

Mr. Ernoll Gray, President
Ms. Valerie Hopkins, A/General Manager

Bella Bella Community Development Society (BBCDS)
WAGLISLA, British Columbia
PHONE: (604) 957-2381 (Band Office)
FAX: (604) 957-2544

Mr. Cecil Reid, President
Mr. Steve Saklas, General Manager
Mr. Duane Root, Loans Manager

Corporation de Developpement Economique Montagnaise (CDEM)
VILLAGE DES HURONS, Quebec
PHONE: (418) 842-0277
FAX: (418) 649-0868

Mr. Paul Fournier, President

Dana Naye Ventures
WHITEHORSE, Yukon
PHONE: (403) 668-6925
FAX: (403) 668-3127

Mr. Mark Wedge, President
Ms. Judy Gingell, Chairperson
Mr. Paul Goldsmith, Chief Executive Officer
Ms. Marg Baufeld, General Manager

First Peoples Development Fund Inc.
FREDERICTON, New Brunswick
PHONE: (506) 453-9429
FAX: (506) 450-9564

Mr. Gary Gould, Chairman
Mr. John Bower, General Manager

Haisla Development Corporation
KITAMAAT VILLAGE, British Columbia
PHONE: (604) 632-6465 or 639-9361 (Band Office)
FAX: (604) 622-2914

Mr. Gerald Amos, Chief Executive Director
Mr. Ken Hodgins, Executive Director
Ms. Lee Williams, General Manager

Indian Agri-Business Corporation (IABC)
CALGARY, Alberta
PHONE: (403) 258-3700
FAX: (403) 253-1817

Mr. Clement Doore, President
Mr. Wil J. Davies, A/General Manager

Indian Agricultural Program of Ontario (IAPO)
STIRLING, Ontario
PHONE: (613) 395-5505
FAX: (613) 395-5510

Mr. William J. Brant, Chairman
Mr. T. Wayne Martin, Program Manager

Kahnawake Loan Guarantee Fund Inc.
KAHNAWAKE, Quebec
PHONE: (514) 632-7500
FAX: (514) 638-3276

Mr. Ronald J. Abraira, Director, Economic Development

Kativik Investment Fund Inc. (KIF)
KUUJJUAQ, Quebec
PHONE: (514) 634-8091 or (819) 964-2961
FAX: (819) 964-2611/2956

Mr. Tikile Kleist, Chairman of the Board
Mr. Vallee Saunders, General Manager

Manitoba Indian Agricultural Development Corporation (MIADC)
WINNIPEG, Manitoba
PHONE: (204) 947-1647
FAX: (204) 942-3687

Mr. Howard Starr, Chairman
Mr. Ralph Schmidt, General Manager

Metis Economic Development Foundation of Saskatchewan Inc. (MEDFO)
REGINA, Saskatchewan
PHONE: (306) 757-7770
FAX: (306) 757-0110

Mr. Martin Aubichon, President

N.W.T. Metis Development Corporation Ltd.
YELLOWKNIFE, N.W.T.
PHONE: (403) 920-4952
FAX: (403) 873-3492

Mr. Ernie Daniels, President

Nishnawbe-Aski Development Fund (NADF)
THUNDER BAY, Ontario
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FAX: (604) 723-0463

Mr. Dennis F. Cromarty, President and Chief Executive Officer
Mr. Mike Belliveau, General Manager

Nuu-chah-nulth Economic Development Corporation (NEDC)
PORT ALBERNI, British Columbia
PHONE: (604) 724-3131
FAX: (604) 723-0463

Ms. Darleen Watts, Chairperson - NEDC
Mr. Gerald D. Wesley, Executive Director - Tribal Council
Mr. Joe Myers, General Manager - NEDC

N.W.T. Cooperative Business Development Fund
YELLOWKNIFE, N.W.T.
PHONE: (403) 873-3481
FAX: (403) 920-4052

Mr. Bill Lyall, President
Mr. Andy Morrison, General Manager

OMAA Development Corporation
SAULT STE-MARIE, Ontario
PHONE: (705) 949-5161
FAX: (705) 949-3561

Mr. Henry Wetelainen, Chairman, OMAA Development Corp.
Mr. Don Galloway, A/General Manager, Development Corp.

Saskatchewan Indian Equity Foundation (SIEF)
REGINA, Saskatchewan
PHONE: (306) 352-0996 Mobile: (306) 536-0135
FAX: (306) 359-6588

Mr. Roy H. Bird, Chairman
Mr. Wayne Gray, General Manager

Saskatchewan Indian Loan Company (SILCO)
REGINA, Saskatchewan
PHONE: (306) 721-2974
FAX: (306) 721-8669

Mr. Ken Thomas, President
Mr. Jerry Starr, Chairman
Mr. W.J. Davies, General Manager

Saskanative Economic Development Corporation (SNEDCO)
REGINA, Saskatchewan
PHONE: (306) 757-7770
FAX: (306) 757-0110

Mr. Ron Camponi, Chairman
Mr. Jim Demchuk, President/Chief Executive Officer

Settlement Investment Corporation (SIC)
EDMONTON, Alberta
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FAX: (403) 425-0202

Mr. Ray Wanuch, A/General Manager

Six Nations Development Corporation
OHSWEKEN, Ontario
N0A 1M0
PHONE: (519) 445-4103
FAX: (519) 445-4144

Mr. Steven Williams, Chairman
Mr. Lewis Staats, General Manager

Tribal Resource Investment Corporation
PRINCE RUPERT, British Columbia
PHONE: (604) 624-4666
FAX: (604) 627-1602

Mr. Frank Parnell, Chief Executive Officer
Mr. Bruce Samson, Chief Financial Officer

Ulnooweg Development Group Inc.
ESKASONI, Nova Scotia
PHONE: (902) 379-2244
FAX: (902) 379-2632

Chief Terrance Paul, Chairman
Mr. John MacAuley, General Manager

Wabanaki Enterprises, Inc.
FREDERICTON, New Brunswick
PHONE: (506) 453-9799
FAX: (506) 450-3749

Mr. Phil Fraser, Chairman
Mr. Eugene Lysy, General Manager

Western Indian Lending Association (WILA)
VANCOUVER, British Columbia
PHONE: (604) 669-5955
FAX: (604) 669-7750

Mr. Gordon Antoine, President
Mr. Richard Behn, General Manager

Resource Access Negotiations (RAN) Program
Program Guidelines
Resource Development Directorate

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Program Objective

The objective of the program is to assist Indian bands, Inuit and Innu communities to access business and employment opportunities and to attract investment in the natural resource and tourism sectors.

Purpose:

To provide financial assistance by way of contributions from the Economic Development Sector of DIAND to:

- take advantage of large resource developments nearby;
- attract investments into resource development on Indian land;
- contract with provincial, territorial and private sector developers to develop and manage resources on Crown lands.

Eligible Applicants

Indian bands, Inuit and Innu communities and settlements, tribal councils, and their institutions which have been mandated by their bands or communities to carry out activities on their behalf.

Eligible Purposes

Benefit negotiating activities, with developers of off-reserve resource projects near communities or reserves and related parties, to gain employment, business and other economic benefits from these projects.

Investment negotiations to develop community-controlled natural resources which have not been subject to such activity in the past.

Contract negotiating activities, with provinces, territories and other owners or users, to develop and manage off-reserve natural resources.

These activities are defined to include the development of community negotiating plans and positions for:

- negotiating employment and business development agreements with off-reserve developers;
- negotiating the sale, lease or other disposition of, or, private investment in, community-controlled natural resources;

- negotiating contractual access to develop and manage off-reserve natural resources and tourism;
- conducting negotiations;
- drafting and finalizing agreements.

These negotiating activities do not include:

- pre-negotiating activities such as community planning and consultations to identify resource access issues and to determine whether or not to enter negotiations. These activities are the responsibility of the Community Planning component of CAEDS (CEDO funding) and Comprehensive Community Base Planning of Indian Services;
- support to resource access negotiations which do not represent "first time" activities, eg: renewals or renegotiation of expired or expiring on-reserve leases;
- activities related to the federal jurisdiction over reserves, which are normally assumed by DIAND;
- community ratification processes and on-going costs of development agreements, eg: implementation costs;
- market research, development of business plans and capitalization of projects resulting from development agreements. These activities are the responsibility of the Business component of Aboriginal Business Program (ABP) of ISTC under CAEDS;
- the development of joint venture proposals with the private sector for the development of both on and off-reserve natural resources. These activities are the responsibility of the Joint Venture component of the ABP of ISTC under CAEDS.

Project Assessment Criteria

Proposals are assessed according to the following criteria:

- Compliance of the project with the 'objective' and 'eligible purposes' of the **Resource Access Negotiations Program.**
- In the case of off-reserve projects, the probability of the project proceeding and the evidence of viable community-based business and employment opportunities that could arise from the negotiations.
- That there is a basis for successful negotiations, eg: one or more parties are willing to negotiate with the applicant.
- Whether the work plan can be carried out for the proposed cost and within the proposed time frame.
- The extent of the applicant's financial and human resources commitment to the overall objectives; the applicant's need for the level of financial assistance requested, taking into account the applicant's financial capacity and availability of funds from other sources.
- The potential availability of funds to implement the agreement, and resulting business and employment opportunities.

Project Funding

Eligible Project Costs

Eligible costs are the actual expenditures for developing negotiation plans and proposals, for conducting negotiations and for drafting and finalizing agreements related to:

- the fees and expenses of technical experts, including consultants, negotiators and lawyers, hired for these purposes;
- the incremental direct costs to the Bands or communities related to the negotiations project.

Cost items **not** funded through the **Resource Access Negotiations Program** include:

- per diems, salaries and wages for community members for whom the work related to the project falls within a work assignment for which they are already paid;
- overhead costs to the applicant, in situations where the applicant would normally incur the overhead costs in the absence of the project;
- honoraria for band or community members;
- requests for increased funding for an approved project;
- expenses for services normally provided by DIAND;
- costs related to non-economic activities (eg. environmental assessment).

Level Of Funding

To optimize the national impact of program funds available under RAN, applicants are expected to commit financial and human resources to the overall purpose of the negotiations to the maximum extent of their capacity.

The **Program** will fund projects according to the following formula:

> Total eligible project costs,
>
> Less:
>
> – project funding from third parties
> – the proportionate share of the benefits, if the project has a component which is non-Indian, non-Inuit or non-Innu
> – the applicant's equity

Questions and Answers

Client Information

Can my organization get funding for our negotiation project from the Program?

To determine this, you should first determine whether your organization is eligible for funding. If yes, you should then determine whether your negotiation project is eligible. If your organization and your negotiation project are eligible, then the **Program** may be in a position to help.

How do I determine whether my organization is an eligible applicant?

Indian, Innu, and Inuit bands, communities and settlements are eligible. Associations of bands and communities such as tribal councils are also eligible. In addition, economic and other institutions mandated by bands or communities to carry out activities on their behalf are also eligible. Included in this category would be organizations providing economic development services to Indian, Innu, and Inuit communities.

Businesses, whether in the form of corporations, partnerships or proprietorships, are generally not eligible. However, community-owned development corporations which have been mandated to carry out the proposed negotiation project by and on behalf of their communities would be eligible.

My organization represents indian, innu, and inuit interests, as well as other interests. Will it be eligible for funding?

Yes. However, the level of funding will be reduced in proportion to the non-Indian, non-Innu, and non-Inuit benefits that would accrue from the negotiations.

How do I determine whether my organization's negotiation project is eligible?

You must ask yourself whether you have a party willing to enter into negotiations. The **Program** funds "negotiations" with third parties, with the expectation that negotiations will lead to agreements for employment, business and investment opportunities. You must also assess the magnitude of the project impact on the community. The **Program** will only fund projects with high potential impacts.

You should also determine whether your "negotiations" project is pursuing one of these eligible purposes:

- To secure access to off-reserve renewable and non-renewable resources. Included in this would be the right to develop and manage off-reserve resources such as wildlife, forests, fishery, minerals, or tourism.

- To increase Indian, Inuit and Innu access to employment, business and other opportunities in off-reserve resource projects near communities. If a major project is being proposed near your community, and you want to share in the employment, business and other opportunities related to it, the **Program** could provide you with funding to negotiate with the developer for a share of the opportunities.

- To sell, lease, maintain, discover, develop or generate other economic benefits from community-controlled renewable and non-renewable resources. For example, if you wanted to sell community-controlled mineral rights to a mining company, the **Program** could assist you with a portion of the resources to negotiate a deal.

Preparing to enter negotiations requires considerable expenditures. Will the Program fund these costs?

No. Expenditures for assessing the community-controlled resources or possible benefits from off-reserve resource development prospects, determining community interest in negotiations and developing negotiating strategies will not be financed. These activities are the responsibility of Bands, Tribal Councils and Community Economic Development Organizations.

What about costs of implementing development agreements which have been negotiated?

The **Program** will not fund these costs. Existing provincial and federal government programs such as those administered by DIAND, ISTC and EIC can help here. Where possible, negotiations should address funding required for implementation.

Our organization wishes to make a presentation at an environmental assessment hearing to protect traditional occupations from encroachment. Would our project receive funding under the program?

No, because you are not negotiating to ensure direct development benefits.

Our organization wishes to negotiate with a major developer planning to operate near our community. While we want to negotiate for employment and business opportunities, we also want to discuss environment and other non-economic issues. Would our negotiations be funded under the Program.

Yes. However, the level of funding would be reduced in proportion to your non-economic concerns within the total project. The **Program** is not intended to fund "environment and other non-economic negotiations".

Are tourism projects eligible?

Yes. Negotiations for major off-reserve resources and opportunities would be eligible (eg. major leases for resorts, wilderness camps).

Our organization wants to negotiate a lease renewal. Is our project eligible?

No. The **Program** focusses on new initiatives. Your organization should put aside funds from existing leases to pay for the costs of renewal or renegotiation.

How much money can we expect from the Program for our project?

First, you must calculate eligible project costs. Most costs are eligible. However, ineligible costs include:

- Honoraria, per diems, salaries and wages for community members for whom the work related to the project falls within a work assignment for which they are already paid.
- Overhead costs which would normally be incurred in the absence of the project.

Funding for your project can be determined by subtracting the following from total eligible costs:

- Any funding you may receive from third parties.
- Where your organization represents non-Indian, non-Innu and non-Inuit interests, an allowance proportionate to the benefits accruing to them will be made.
- Where your negotiations cover both economic development and other concerns, an allowance proportionate to the extent of non-economic concerns within your project.
- An allowance for your anticipated contribution to the project.

How will my project be assessed for approval?

Your completed application and proposal should be forwarded to the Economic Development sector of DIAND's regional office. The regional office will evaluate the proposal according to the project approval criteria, carry out a cost benefit analysis and determine the level of funding required. If the project satisfies the criteria, the Regional Director of Economic Development recommends the project to the Assistant Deputy Minister of Economic Development for approval.

If for some reason your application is not approved, you will be notified with the reasons. You may also be contacted if additional information is required.

Dealing With Clients

Negotiation Application Format

Applications should include the following information:

- project name, applicant's name, address, telephone and fax numbers (if available), application date;
- description of proposed resource development project; identify possible employment, business, investment opportunities and other benefits;
- the purpose of the negotiating project;
- name and address of the other negotiating party(s);
- project work plan: description of negotiating activities and approximate time frames;
- project expenses: list costs according to work plan activities and fiscal year;
- project benefits: state clear, well-defined anticipated results and the time-frame in which they will occur;
- project funding: profile all funding sources including applicant's equity, and state fiscal year for which commitments apply;
- project cash flow: based on planned expenditures and commitments of funding from other sources;
- an explanation as to how the project fits into the applicant's community/organization plan and why the applicant believes the negotiations will succeed;
- the applicant's initiatives to secure project funding from other sources; and
- how the applicant will manage the work.

Resource Access Negotiations Program
Application Form

PROJECT TITLE: ____________________

APPLICATION INFORMATION

Name : ____________________

Address : ____________________

____

____

Phone : (   ) ____________ Fax :(   ) ____________

Purpose : ☐ Benefit agreements off-reserve

☐ Sale or lease of Reserve assets

☐ Access to off-reserve resources

☐ Other: ____________________

Description of Resource Development Project

Description on Negotiation Project

Potential benefits (employment, revenue, business potential, agreements,etc)

Project Budget:	Year	Year
Total Eligible Cost:	____________	____________
Band/community Equity:	____________	____________
Other Sources: (specify)	____________	____________
____________		
____________		

Total Project Cost: ____________

Amount Requested: ____________

Attachments:

☐ Background Information
☐ Detailed Proposal
☐ Work Plan
☐ Strategic Plan

☐ BCR or Board Resolution
☐ Budget showing detailed costing
☐ Cash Flow
☐ Other (specify) ________________

Applicant Signature: ____________________________________

Name: ____________________________________

Title: ____________________________________

Date: ____________________________________

Resource Access Negotiations Program
Regional Project Assessment

PROJECT TITLE: ______________________________

Location: ______________________________

Applicant's Name: ______________________________

Description of Project: ______________________________

Description of Negotiation Project (include output): ______________________________

Regional Assessment: ______________________________

Project Budget:	Year	Year
Total Eligible Cost:	________	________
Less: Band/community Equity	________	________
Non-Indian benefit	________	________
Other Sources	________	________
R A N	________	________

Recommended	________________ **Regional Director** **Economic Development**	**Approved**	________________ **Assistant Deputy Minister** **Economic Development**

Contribution Agreement

The attached sample specific purpose contribution agreement may be used, or funding may be provided to the recipient through an amendment to their existing Comprehensive Funding Agreement (CFA).

The standard contribution agreement will be made available to regions on diskette, using WORDPERFECT 5.1.

As a matter of policy, contribution agreements will include:

- identification of the recipient;
- the purpose of the contribution agreement;
- the effective date, the date of signing and the duration of the agreement;
- the financial and non-financial conditions attached to the agreement and the consequences of failing to adhere to the conditions;
- the allowable costs or the types or classes of expenditure eligible for reimbursement;
- the conditions to be met before scheduled payments;
- the maximum amount payable;
- provisions for DIAND termination of the agreement and withdrawal from the project if the original objectives are not being met;
- the applicant's commitment to supply information on the results of the funding.
- provisions which prohibit members of the House of Commons or Senate from benefitting from the contribution agreement;
- disclosure of the involvement of former public servants and whether Treasury Board post-employment guidelines apply;
- permission to carry out financial and performance audits;
- a willingness to participate in evaluations of the project;
- commitment to identify and address potential environmental impacts in any agreements which may result from negotiations;

- provision for the applicant to return over- payments, unexpended balances and disallowed expenses to DIAND, and a declaration that such amounts constitute debts due the Crown; and,
- provisions that permit revisions to work plans and DIAND expenditure schedules, but do not permit upward revisions of the maximum amount payable, except in circumstances beyond the control of the applicant.

Contribution Agreement

This Contribution Agreement, made as of the ____day of __________, 19___

BETWEEN: HER MAJESTY THE QUEEN in Right of Canada represented by the Minister of Indian Affairs and Northern Development, (hereinafter called "the Minister")

OF THE FIRST PART

AND:

____

(hereinafter called "the Recipient")

OF THE SECOND PART.

Purpose:

The Recipient agrees to undertake negotiations leading to a Development Agreement with

____

for the purpose of (disposing of community controlled renewable and non-renewable resources, accessing benefits from major resource projects near reserves, accessing off-reserve renewable and non-renewable resources).

NOW THEREFORE THE PARTIES HERETO AGREE AS FOLLOWS:

Scope of Work

1. The Recipient shall pursue the Objectives and carry out the Work Plan outlined in Schedule 1.

Amount of Payment

2. To assist the Recipient to carry out the Work Plan in Schedule 1, the Minister shall provide an accountable contribution to the recipient of an amount of ___________ subject to the funds being appropriated by Parliament.

Report Requirements

3. The Recipient shall provide to the Minister Progress Claim Reports and a Final Claim Report by such dates and for such reporting periods as outlined in Schedule 2. The Progress Claim Reports and the Final Claim Report shall summarize work undertaken, benefits achieved and "eligible project costs" incurred during the reporting period to which the Report applies and for the project to date.

4. The Recipient agrees to repay or return to the Minister all over payments, unexpended balances or disallowed expenses, as such amounts constitute a debt to the Crown.

Environment

5. The Recipient agrees to incorporate and utilize appropriate environmental protection measures in relation to any projects which may result from negotiations funded by this Contribution Agreement, such measures to satisfy and comply with the requirements of the Federal Environmental Assessment Review Process (EARP), the Canadian Environmental Protection Act (CEPA) and all other applicable Federal or Provincial environmental acts, regulations and guidelines.

Termination

6. This Contribution Agreement may be terminated without cause by either party by forwarding a written notice of termination to the offices of the other party at least 30 days prior to the termination date.

Exclusion of Members of The House of Commons

7. No member of the House of Commons shall be admitted to any share or part of this Contribution Agreement, or to any benefit arising therefrom.

Activities of Former Public Servants

8. The Recipient will disclose the involvement of former public servants in this Contribution Agreement, and whether Treasury Board post-employment guidelines apply.

Notice

9. All notices and other communications between the Minister and the Recipient may be given by prepaid registered mail to:

the Recipient, addressed to:

____

____

____

the Minister, addressed to:

____

____

____

Duration

10. This Contribution Agreement shall come into effect on ____________________, and shall expire on ____________________. No funding will be provided under this Contribution Agreement after ____________________.

Monitoring, Audit and Evaluation

11. The Recipient shall permit the Minister access to the financial and other records related to this Contribution Agreement at any reasonable time.

12. The Recipient shall establish and maintain financial records, in accordance with generally acceptable accounting principles and practices, to ensure the adequacy, accuracy, completeness and timeliness of reports and plans based upon these records.

13. An audited financial statement will be provided, upon request, and submitted no later than June 30th. of the following fiscal year this contribution applies.

14. The recipient agrees to disclose all sources and purposes of financial assistance received during the duration of this agreement for the purposes of this endeavour.

Communications

15. The Recipient agrees to cooperate with the Minister on measures to communicate news of the signing of this Agreement.

Signed for and on behalf of
the Recipient:

as represented by:

in the presence of

Date

in the presence of

as represented by the
Minister of Indian Affairs
and Northern Development:

Date

I certify that the Contribution Agreement conforms with the financial requirements of the Treasury Board.

Financial Officer

Schedule 1
Recipient Objectives

Recipient Objectives

1. ...

2. ...

3. ...

Work Plan

	Start Date (mm/dd/yy)	End Date (mm/dd/yy)
1. ...		
2. ...		
3. ...		
4. ...		
5. ...		
6. ...		

[In this schedule, regions may include sub-activities or milestones or targets to be reached by particular dates]

Project Summary Report

Just prior to closing the project file, the regional officer managing the project will complete a Project Summary Report and forward this, through the Regional Director – Economic Development, to RDD.

The Project Summary Report will include information on:

- Total project expenditures (and actual sources).
- A chronological summary of key events within the project.
- A statement on whether the project met its original objectives, and an explanation of why not, if it failed to do so.
- A statement on any benefits (or costs) other than those related to the original objectives. For example, the original objective may have been to negotiate an agreement with partner x. These negotiations may have collapsed, but led to subsequent negotiations and the possibility of an agreement with partner y.
- Success factors or impediments that could be beneficial either to others developing similar projects, or to **Program** administrators.
- Date of completion.

Communications

Regions will design a communications plan to ensure the federal government's visibility for the duration of each project. Through consultations with project proponents, individual communications plans will be developed to provide for announcements of each initiative by the federal government.

Tasks and Responsibilities

STEP	AGENT	TASK
1.	Applicant	Submit proposal according to the application format.
2.	Ec Dev Region	Open a project file, assign a regional project number and a contact person at the regional office. Evaluate application according to the project approval criteria and carry out a Regional Project Assessment. Either: – reject the application and notify applicant with an explanation, or, – discuss the project with the applicant to modify the application so that it can be recommended for approval. Determine the project funding level.
3.	Ec Dev Region	Submit Regional Project Assessment with Regional Director's recommendation to Resource Development Directorate (RDD).
4.	RDD	Review project assessment and recommend for approval of ADM. Request DIAND Finance to transfer funds to the appropriate regional vote control code. Enter appropriate data into the headquarters computer information system and open the headquarters'project file.
5.	Ec Dev Region	Upon approval, sign Contribution Arrangement. Confirm signing and amount to RDD. Forward copy to RDD.
6.	RDD	Upon receipt of confirmation, DIAND Finance to transfer funds to the appropriate regional vote control code. Enter appropriate data into the headquarters computer information system and file it in the headquarters' project file.
7.	Ec Dev Region	Monitor project activities.

STEP	AGENT	TASK
8.	Ec Dev Region	Where there is a need to revise the project's work plan, estimated eligible project costs or DIAND expenditure profile, whether at the client's or DIAND's initiative, advise RDD of revisions.
9.	Ec Dev Region	Prior to the next fiscal year, for projects which are carried over, regions are to confirm budget requirements so that funds can be transferred in April.
10.	Ec Dev Region	On completion of the project, complete the 'Project Summary Report', forward it to RDD, put copies in the regional file and close the file.
11.	RDD	Record data from the 'Project Summary Report' in the headquarters' computer information system and place the documents in the headquarters' project file.
12.	Ec Dev Region	Monitor client activities related to the project. Secure any negotiated development agreements related to the project which may be signed subsequent to the completion of the final project report and forward these agreements to RDD.

Memorandum Of Agreement

For

Aboriginal Social Assistance Recipient Employment Training

Between

Indian And Northern Affairs Canada

And

Employment And Immigration Canada

1. Introduction

The Memorandum of Agreement (MOA) establishes the framework for co-operative actions between:

Indian and Northern Affairs Canada (INAC)

Employment and Immigration Canada (EIC)

to develop and implement measures to provide employment training and related activities* to Aboriginal social assistance recipients** in order to improve their employability within the Canadian labour market, particularly in the local labour market.

This initiative will direct resources to on-reserve Aboriginal social assistance recipients. This group has the highest social assistance dependency rate of any group in Canada.

2. General Objectives of the Memorandum of Agreement

A. The parties to this Memorandum of Agreement recognize the need for employment training on Aboriginal (Indian) reserves. Currently, 36% of Aboriginal people on reserves receive social assistance as their main source of income and approximately $365 million were transferred in the form of social assistance to on-reserve Aboriginal people in 1988-89.

**Employment Training Activities* may refer to literacy remediation, adult basic education, occupation and vocational skills training and work experience programs funded by EIC and/or INAC.

***Aboriginal Social Assistance Recipients* refers to within this MOA to Indian, Inuit, Dene and/or Innu persons in receipt of social assistance support provided by INAC.

In order to address the above noted situation, the parties wish to pursue the following common objectives:

(1) to make employment training opportunities available to Aboriginal social assistance recipients;

(2) to encourage Aboriginal communities to broaden their trained labour force necessary for productive human resource development and economic development;

(3) to promote the training of Aboriginal social assistance recipients as a means of increasing the achievement of equality goals within the Canadian labour market;

(4) to convert passive social assistance resources to active training uses; and

(5) to further the federal goal of Aboriginal self-reliance as described in the Canadian Aboriginal Economic Development Strategy (CAEDS).

B. This Memorandum of Agreement establishes:

(1) the roles and responsibilities of the parties;

(2) the framework under which the parties will carry out their joint and respective activities; and

(3) that this Memorandum of Agreement is not to be construed as having any overriding effect on existing departmental authorities which govern the use of social assistance and/or training resources for Aboriginal social assistance recipients.

3. Specific Joint Objectives

The parties agree, in general, to support Aboriginal communities to develop the measures necessary to support the overall objectives of this Memorandum, and, in particular, in:

(1) identifying and planning the training needs of Aboriginal social assistance recipients and seeking solutions to short and long term employability difficulties they have;

(2) identifying and planning for the short and long term skills required of Aboriginal social assistance recipient to participate in the local labour market and in the surrounding non-Aboriginal employment community;

(3) utilizing or developing Aboriginal community capacity to deliver or arrange planned Aboriginal social assistance recipient training;

(4) expanding the training opportunities for Aboriginal social assistance recipients within existing government social assistance and training budgets;

(5) realizing the economic development potential of Aboriginal communities through appropriate human resource training programs for Aboriginal social assistance recipients;

(6) improving, in general, the skill development of Aboriginal people through co-operative governmental actions as outlined for Canadian Aboriginal Economic Development Strategy partners; and

(7) increasing the availability of appropriately skilled Aboriginal people for labour market attachment that will assist Aboriginal people achieve economic self-sufficiency and equality in the Canadian labour force.

4. Indian and Northern Affairs Canada

In particular, Indian and Northern Affairs Canada agrees:

(1) to use existing authorities to direct social assistance entitlements to employment related training activities for Aboriginal social assistance recipients or empower Aboriginal community government councils to do so where those Aboriginal organizations administer their own social assistance program;

(2) to provide resources to Aboriginal delivery agencies* where required, to facilitate, monitor and evaluate employment training activities of Aboriginal social assistance recipients;

(3) to identify, or have Aboriginal delivery agencies identify, employment training skills needs appropriate to the local and general labour market and the needs of Aboriginal social assistance recipient participants;

(4) to promote the availability of employment training opportunities for Aboriginal social assistance recipients directly through Aboriginal delivery agencies, where appropriate;

(5) to ensure that all potential Aboriginal social assistance recipient participants involved in the employment training described in this Memorandum of Agreement will not receive less in income support as a result of their participation; and

---

*Aboriginal delivery agencies refers to any Aboriginal organization having a mandate from an Aboriginal community government to provide labour force development advisory support, programs and/or services on behalf of Indian, Inuit, Dene and/or Innu residents.

(6) that all Aboriginal social assistance recipients involved in employment training activities outlined in this Memorandum of Agreement would participate in them on a voluntary basis.

5. Employment and Immigration Canada

In particular, Employment and Immigration Canada agrees:

(1) to use existing program and services authorities in a flexible manner to provide appropriate employment training assistance to Aboriginal social assistance recipients;

(2) to provide, where required, delivery assistance to Aboriginal delivery agencies in order to facilitate, monitor and evaluate employment training activities for Aboriginal social assistance recipients;

(3) to provide, where required, labour market services as a means of assisting Aboriginal delivery agencies involved in developing Aboriginal social assistance training plans for potential participants; and

(4) to communicate and promote its employment training programs and services relevant to this Memorandum, to Aboriginal delivery agencies or potential Aboriginal social assistance recipient participants in employment training activities.

6. Amendments

Amendments to the terms of this Memorandum of Agreement may be made by written mutual agreement of the parties.

7. Endorsement

Upon the signing of this Memorandum of Agreement, the parties endorse this document and affirm their intention to proceed with the collaborative activities included in this Memorandum and develop and implement those measures to meet the employment training needs of Aboriginal social assistance recipients through joint and respective actions.

Arthur Kroeger
Deputy Minister/Chairman
Employment & Immigration Canada

Harry Swain
Deputy Minister
Indian & Northern Affairs Canada

Signed in Ottawa on this 12 day of April 1990.

Pathways in Brief

PARTNERSHIP PRINCIPLES

In recognition of EIC's mandate to facilitate adjustments required for the effective functioning of the Canadian Labour market, and in recognition of the benefits for all Aboriginal peoples it is the objective of Aboriginal people and EIC to establish an effective partnership to invest in and develop a trained Aboriginal labour force for participation in unique Aboriginal labour markets and the broader Canadian labour market.

This partnership is based on the following five principles:

1. Consultation Process and Local Control of Decision Making
that this partnership be solidified through the establishment of national, regional and local consultation/management boards to ensure that the needs and priorities of the Aboriginal community are addressed and are reflected in the design, development and implementation of EIC policies that effect them;

2. Delivery Mechanisms
that employment and training programs and services be managed, operated, conducted and arranged through Aboriginal infrastructures (i.e. First Nations, Inuit and Metis organizations, Aboriginal communities, tribal councils and institutions);

3. Funding Mechanisms and Institutional Development Capacity
that a funding mechanism be developed which recognizes the planning and operational needs of Aboriginal delivery machinery, and develops a capacity as described above, reflecting the level of need in Aboriginal communities. Such a mechanism could be based on existing successful models;

4. Affirmative Action - Employment Equity
that EIC aggressively undertake pro-active measures to improve recruitment, training and employment of Aboriginal people both internally and externally (i.e. private sector, federal contractors, provinces and federally regulated employers);

5. Eligibility for Programs and Services
that consistent with the principles enunciated above, the Aboriginal delivery machinery, where in place, be given the discretion to determine a person's eligibility for programs and services, and that more generally, there be a reliance on counselling for determining eligibility rather than on strict eligibility criteria as in the past.

PRINCIPLE 1: JOINT MANAGEMENT BOARDS

LOCAL MANAGEMENT BOARDS (LMB):

MINIMUM ROLES:

- receive applications for projects
- will have CEC vet projects to ensure that they are supportable - ie. fit criteria of programs--intent
- Aboriginal members will vote on what gets approved and this decision will stand -- no projects will be approved by EIC that have not received board approval
- manage and spend against notional budget
- establish priorities
- oversee co-ordinating groups & Aboriginal service agencies
- monitor & evaluate local Aboriginal training and employment initiatives
- review joint management process at local level
- will elect members to sit on regional board

EIC RESPONSIBILITY:

- co-chaired by EIC manager & Aboriginal representative - EIC representation at CEC manager level (at least)
- provide labour market information - technical and administrative support

REGIONAL MANAGEMENT BOARDS (RMB):

MINIMUM ROLES:

- approve projects with regional impact - no projects will be approved by EIC that have not received board approval
- review joint management process at regional level
- review policy and programs
- monitor employment equity
- monitor & evaluate regional Aboriginal initiatives
- review budgets and distribution to local boards
- regional forum for Aboriginal policy & human resource development task forces with other partners
- elect members to sit on national board

EIC RESPONSIBILITY:

- Representation at RDG/Executive Director level - meeting co-chaired by RDG & Ab. representative
- provide technical and administrative support

NATIONAL MANAGEMENT BOARD (NMB):

MINIMUM ROLES:

- approve projects at national level -- no project will be approved by EIC that has not received board approval
- review joint management process at national level
- review national policy and programs
- monitor employment equity
- monitor and evaluate regional initiatives

  - review budgets and distribution to regions
  - employment/training task forces with other partners
  - elect representative for National Training Board (CLMCP)

EIC RESPONSIBILITY:

  - Co-chaired by Associate DM & Ab. representative
  - EIC participation at DG/Executive Director level

CONSIDERATIONS:

- needs to be bottom-up driven process
- must ensure that all Aboriginal groups included in process
- must be flexible (reflect local realities) but consistent (reflect EIC realities)
- number and location of LMBs would depend on regional Aboriginal working age population and other factors such as CEC structures
- on/off reserve mix, female representation need to be accounted for
- board members may need training by EIC staff on EIC programs and operations/EIC members of boards may need cultural sensitivity -- for the operation of the boards

PRINCIPLE 2: DELIVERY MACHINERY

ABORIGINAL CO-ORDINATING GROUPS (ACG)

- could be enhanced with range of proposed AETSCs services
- arrange, purchase, manage training in accordance with identified skill needs
- link training purchases with employer skill needs
- evaluate effectiveness of training purchased

ABORIGINAL EMPLOYMENT AND TRAINING SERVICE CENTRES (AETSC)

- enhanced Outreach (incorporating Employment Assistance program in the post Bill C-21 - would incorporate Outreaches where appropriate & with consent of community
- responsible for a range of employment and training services - identify clientele, provide referral, follow-up and post-placement counselling
- refer trainees to co-ordinating group
- promote and deliver employment equity programming
- labour market information exchange

CONSIDERATIONS:

- model requires flexibility - LMB may chose to use:
    - -CEC for service and training purchase;
    - -co-ordinating group plus CEC;
    - -co-ordinating group plus AETSCs; or
    - -combined enhanced co-ordinating group that can deliver CEC/AETSCs = "one stop shopping"

  in order to offer a full menu of services.
- one co-ordinating group may service more than one LMB
- CECs should remain responsible for individual clients who chose to use this service

PRINCIPLE 3: FUNDING MECHANISMS/ALLOCATIONS

ABORIGINAL PROGRAMS AND SERVICES

- Aboriginal allocations/shares should be addressed through joint management structure - should be reviewed annually - could flow from appropriate national EIC program/services
- considerations for distribution:
    - EIC programming and service areas
    - historic Aboriginal participation rates & expenditures
    - national Aboriginal working age population %
    - regional Aboriginal working age population %
    - level of Aboriginal unemployment as a % of participation in labour force

ENABLING INFRASTRUCTURE CAPACITY

- for joint management boards and delivery machinery
- operational budgets may be negotiated through boards
- LMBs & RMBs determine budget allocations for AETSCs and ACGs
- NMB secretariat provided through EIC NHQ Designated Groups
- RMB quasi-secretariat through regional Aboriginal Employment Co-ordinator

PRINCIPLE 4: EMPLOYMENT EQUITY

USE ABORIGINAL CONTROLLED AND DIRECTED AGENCIES

- such as AESTCs, Outreach, employment agencies, co-ordinating groups to do:
- labour market exchange services
- help employers find trained, labour market ready Aboriginal people and retain them
- cross-cultural training for employers

ANNUAL REVIEW OF EIC ABORIGINAL RECRUITMENT

- through RMB & NMB

EIC APPOINTMENTS

- use vacancies to staff equity positions
- designate "Aboriginal preferred" positions

- designate positions (or new program) under Career Assignment Service or Management Orientation Program

EIC TRAINING POSITIONS

- increase positions under Designated Group Retention & Development Program (DGRP) to its expansion from Aboriginal Retention & Development Program (ARDP)
- year-round NIP
- expand internal hiring campaign (Co-op) to use Aboriginal training institutions

ANNUAL ABORIGINAL EMPLOYMENT EQUITY CONFERENCE

- information exchange
- develop new approaches
- Aboriginal training agencies & employers networking

EMPLOYER BASED EMPLOYMENT EQUITY

- federally regulated employers' and federal contractors' incentive program to establish Aboriginal human resource plan and implementation
- possibly available for non-legislated employers

PRINCIPLE 5: ELIGIBILITY CRITERIA

ELIGIBILITY AND ENTITLEMENT RULES

- eligibility based on individuals meeting the spirit and intent of programs and services based on counsellor discretion - with labour market attachment being the goal
- Aboriginal community based project entitlement determined through joint management boards

CLIENT ASSESSMENT

- should consider Aboriginal cultural and community factors when relying more on discretionary assessment than fixed criteria for referral
- Aboriginal cultural and community training for CEC counsellors by Aboriginal trainers

SPONSOR ASSESSMENT

- joint management boards must establish assessment and implementation procedure for assessing and approving proposals
- board/staff review and present proposals to board

REMOVAL OF PROGRAM BARRIERS

- 55 recommendations listed in "Pathways" implementation paper to a large extent have been covered by these principles -- see attached -- (some of these recommendations are being considered as part of the programming and policy changes under the LFDS)

PATHWAYS RECOMMENDATIONS STATUS

AETWG PATHWAYS RECOMMENDATIONS STATUS REPORT

PRINCIPLE 1: CONSULTATION PROCESS AND LOCAL CONTROL OF DECISION MAKING

RECOMMENDATION	REQUIRED ACTION	STATUS
Establish national, regional and local consultative mechanisms (R56-58)	Regional consultations with Aboriginal organizations over fall 1990 to design joint-management boards	Implement Apr 1,1991
Develop Interdepartmental/ Intergovernmental National Aboriginal Development Board (R59)	Interdepartmental/governmental committees should be established by the local or regional boards where seen to be appropriate	jnt mngmnt brds to implement if appropriate
Aboriginal Apprenticeship Advisory Board (R54)	Regional joint management boards to establish with provinces, appropriate unions and businesses if deemed appropriate	ibid

PRINCIPLE 2: DELIVERY MACHINERY

RECOMMENDATION	REQUIRED ACTION	STATUS
IAS for Aboriginal Human Resource Planning (R1)	National Committe has been established to develop an HRD process under IAS (Labour Market Services)	In progress
Increase Aboriginal Co-ordinating Groups (R1)	Subject of Regional consultations with Aboriginal Organizations this fall	Should be in progress
Establish Aboriginal Employment and Training Service Centres (R19-23)	Should be one of the subjects addressed in the regional consultations -- or more likely by the management boards once established	pending

PRINCIPLE 3: FUNDING MECHANISM

RECOMMENDATION	REQUIRED ACTION	STATUS
Establish a notional allocation for joint management boards reflecting operational needs and level of need in community (R16-17, 55)	Regions have been asked to identify a notional allocation for the boards to be distributed	Will be implemented April 1, 1990

PRINCIPLE 4: EMPLOYMENT EQUITY

RECOMMENDATION	REQUIRED ACTION	STATUS
Employment Equity objectives reflect not only % of labour force [R26]	Should be taken-up with Personnel	Meeting planned
Year-round NIP [R49,28]	Occurring now in some regions - needs to be established nationally Meeting with Employment and Personnel is required	Working level meeting scheduled to review this
NIP for assisting in training for employment with Aboriginal organizations [R51]	Should be addressed in meeting of Employment and Personnel	ibid
Expand NIP for recruitment to fill permanent positions [R50]	ibid	ibid
Designate positions as 'Aboriginal prefered' [R29]	ibid	Meeting planned with personnel
Yearly Aboriginal Employment Equity Conference [R31]	Discuss with Employment Equity and Personnel possibly establish a committee to review these recommendations	No action to date
Establish a private sector equity employers' Assistance Program [R27]	Should be raised with Employment Equity	No action to date
Use Aboriginal Orgs for identifying referring and placing Aboriginal people with employers unde EE legislation [R26]	ibid	No action to date

RECOMMENDATION 5: REMOVAL OF BARRIERS TO ACCESS

RECOMMENDATION	REQUIRED ACTION	STATUS
Eliminate Exclusionary Eligibility Criteria	Eligibility to depend on counsellor discretion and meeting the 'intent' of the program. Eliminate: 24/30 rule New program framework proposes greater flexibility and may address this recommendation	Under review in Employment Policies
Eliminate Cost Sharing Criteria	should be made as an option for Aboriginal groups in need of work-place training who are in an unstable financial situation	ibid
Co-op Program to include Aboriginal Post Secondary Training Institutions	co-operative ed support is available only to public institutions with substantial provincial funding -- most Aboriginal institutes are private	ibid
Aboriginal Training Trust Fund Option	Is currently possible if Aboriginal organization can match funds. Option needs to be marketed.	ibid
Information on all Innovations Aboriginal activities to be shared with Aboriginal groups	Requires a memorandum from the AETWG to Innovations requesting material and ensuring it is disseminated	ibid
Institute an Aboriginal Developmental Component of Innovations program	S.L.F.I.F. A possible source of National Management Board allocation	to be determined
Increase number of Aboriginal Literacy Corp Projects	Proposal is being developed for discussion with Youth Affairs Directorate	under review in Youth Affairs and in Employment Policies
Fund training beyond 52 weeks	May be addressed under new Program Framework	under review in Employment Policies
Increase Income Support/Dependent Care Allow.	Currently being considered by treasury board	to Director of P/o and Executive Committee. To be given to AETWG technical committee
Remove Section 25 Rule -- three person minimum	Requires clarification from directorate in charge of developmental uses of UI	no progress
EIC/INAC On-resereve SAR Agreement	MOU between INAC/EIC signed -- communique and operational details are being finalized	done

RECOMMENDATION	REQUIRED ACTION	STATUS
EIC join ISTC/INAC Fed/Prov MOUs where it will enhance Aboriginal training and employment	Ontario is looking at one Quebec has established an MOU Manitoba has been an observer to an MOU requires a Memorandum from the Associate Deputy should be done cautiously & consistently with 5 partnership principles	at regional CAEDS level
Expand Community Futures - increase target numbers for Aboriginal only CFs	To discuss with Community Futures	Sub-committee of CF Policy to be established
Pilot Metropolitan Aboriginal CF Project	ibid	under review in new program framework - won't be a pilot
Literacy training to increase potential Aboriginal Skills Training participation	Literacy policy currently under review Native Youth Strategy will also address the literacy issue	under review by Employment Policies
Extend training period to 3 years for literacy and upgrading mix with skills training	ibid	ibid
Provide Sectoral Adjustment to Aboriginal Groups/Organizations	Some work has gone into possible IAS sectoral study on Aboriginal regional economic development corporations. Aboriginal groups may be eligible for sectoral studeies under the proposed LFDS programming.	Underway
Negotiate with SAR authorities to ensure trainees do not receive disincentives for EIC training	This has been included in the Deputy Ministers MOU on Aboriginal Social Assistance Recipient Employability Training Agreement.	done
Use Section 26 for literacy/up-grading	Some work is currently underway to address this under a Native Youth Strategy	Underway
Changes to Skills Shortage designations for section 26 training	Should be addressed under new program changes	under review by Employment Policies
Establish systematic Aboriginal data capturing data for policy and program development	Must be taken up with Employment Equity Data Development and MIS	no action
Fed/Prov SAR agreement to target Aboriginal Off-reserve SAR projects to be delivered by Aboriginal Community Organizations	raise with Deputy Minister's Steering Committee.	no action

Pathways to Success: Aboriginal Employment and Training Strategy

A Background Paper

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Background and Acknowledgements

The *Pathways to Success: Aboriginal Employment and Training Strategy* background and policy and implementation papers represent the work of Employment and Immigration Canada (EIC) and Aboriginal people through the Aboriginal Employment and Training Working Group (AETWG).

The AETWG was organized in November 1989 to address Aboriginal issues surrounding EIC's new Labour Force Development Strategy (LFDS) and consultations with labour market partners on the LFDS conducted by the Canadian Labour Market and Productivity Centre (CLMPC). In both the Labour Force Development Strategy, as articulated by the government's policy and background document, *Success in the Works*, and the CLMPC's process, many Aboriginal people felt the unique labour market needs of Aboriginal Canadians were not being addressed.

The AETWG's mandate was to review EIC's policy, program and service relationship with Aboriginal people and to make specific recommendations for improving the effectiveness of this relationship. This examination was to occur through consultations with Aboriginal people in the context of the LFDS. The expected outcome was a new partnership between Aboriginal people and EIC leading to better labour market results.

The first meeting of the AETWG occurred in February 1990 with Aboriginal representatives from six national Aboriginal organizations (Assembly of First Nations, Métis National Council, Inuit Tapirisat of Canada, Native Women's Association, Native Council of Canada and the National Association of Friendship Centres) as well as Aboriginal training and employment experts from across Canada. EIC was represented on the AETWG by regional and national headquarters officials.

At the February 1990 meeting the Aboriginal members tabled a set of five principles that would form the basis of the new Aboriginal/EIC partnership. Those principles are outlined in the *Pathways to Success Policy and Implementation Paper* and have been endorsed by the six national Aboriginal organizations listed above and many provincial/territorial Aboriginal groups.

At the second AETWG meeting in June 1990, the Minister of Employment and Immigration, the Honourable Barbara McDougall endorsed the principles on behalf of EIC and the Government of Canada.

Since the June 1990 meeting, regional EIC officials and Aboriginal groups from the various provinces/territories have established regional and local consultation processes to put into effect the five partnership principles. Concurrently, work at the national level continues to help regional/local discussions bring about a new labour force/market relationship between Aboriginal people and EIC.

The *Pathways to Success* background and policy and implementation papers, along with the five partnership principles, signals a new era in the way EIC and Aboriginal people plan and implement human resource development in Canada. It is also recognized that other federal departments, the provinces/territories and the private sector (business and labour), will have a role in these developments. As Minister McDougall indicated "the AETWG ... allows us all to get in step with each other and to be in touch with changes occurring in Aboriginal communities. This way we can create a process that will be more effective in addressing Aboriginal labour force and market needs."

The AETWG members listed below must be thanked for their hard work, commitment and patience in bringing about the *Pathways to Success: Aboriginal Employment and Training Strategy* process. Their efforts in developing a partnership between EIC and Aboriginal peoples will help achieve the goals outlined by Minister McDougall and Aboriginal leaders in Canada.

Aboriginal Members:

Chief Joe Miskokomon
Assembly of First Nations

Ron Rivard
Métis National Council

Narda Iuig
Native Council of Canada

Ron Larocque
National Association of Friendship Centres

Debbie Meness
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Robert Higgins
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Roy Mussell
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Harold Maracle
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Saskatchewan Indian Institute of Technology

Chris Lafontaine
Gabriel Dumont Institute, Saskatchewan

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Lionel Carrière
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Phil Godon
Employment Policies, NHQ

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Strategic Policy and Planning, NHQ

John Fox
Labour Market Services, NHQ

Denis Genest
Canada Employment and Immigration Advisory Council

John Ellis
British Columbia/Yukon Region

Conrad Pilon
Northwest Territories Directorate

Bill Loveday
Alberta Region

Tina Eberts
Saskatchewan Region

Caroline Chartrand
Manitoba Region

Lana Landon
Ontario Region

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Quebec Region

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New Brunswick Region (representative for other Atlantic Regions)

Other Employment and Immigration Canada Senior Officials who played an instrumental role in the AETWG's work were:

Nick Mulder
Associate Deputy Minister

Michèle S. Jean
Executive Director, Employment

Yves Poisson
Director General, Employment Policies

Once again, thanks to all of you for your historic work.

Howard Green, Co-ordinator, AETWG
Deborah Hyde, Policy Analyst, AETWG

Foreword

In April 1989, Employment and Immigration Canada (EIC) announced a new Labour Force Development Strategy. The Government's policy paper, *Success in the Works*, signals a new willingness to work with economic and social partners to increase the skill levels of Canadians and find the best combination of policies, programs, and employment practices to ensure that all Canadians can achieve their potential. Finding innovative and effective ways of sharing the management of both existing and future EIC programs with stakeholders is a corporate priority for 1991–92.

Through a mix of programs and services, Employment and Immigration Canada plays a central role in Canadian Aboriginal human resource development. In 1989-90 EIC spent more than $139 million to provide training and services to approximately 24,000 Aboriginal clients.[1] Nevertheless, over the past number of years the effectiveness of EIC programs and services in meeting Aboriginal employment and training needs has been seriously questioned by Aboriginal people.

Demands for change have evolved for a variety of reasons. Increasing numbers of young Aboriginal people are reaching labour force age without the skills or training to participate in the labour market. Aboriginal unemployment rates remain twice the national average while Aboriginal skill and education levels remain much lower than the national average. Aboriginal people have the highest illiteracy rates and the lowest income levels of any group in Canada. These problems will worsen unless economic, social and human resource development policies and programs are more effective.[2]

Now more than ever, it is appropriate to review employment and training programs and services available to Aboriginal people, to explore improvements which will address their serious labour market needs, and find ways to more effectively utilize resources directed at these initiatives.

With the announcement of the Labour Force Development Strategy (LFDS) EIC embarked on an extensive consultation process with business and labour through the Canadian Labour Market and Productivity Centre (CLMPC). CLMPC task forces were asked to provide advice on: training for older workers; training for social assistance recipients; training for Unemployment Insurance claimants; entry-level training, apprenticeship and co-operative education; and approaches to human resource planning.

In the government's analyses of Canada's workforce, Aboriginal people are clearly shown to have substantial barriers to joining the labour market and to be a largely underdeveloped and under-utilized component. CLMPC task forces did not include Aboriginal representatives and Aboriginal briefs to the task forces were limited.

Concurrent to LFDS developments, the Government of Canada announced the Canadian Aboriginal Economic Development Strategy (CAEDS) outlining the government's commitment to developing Aboriginal self-reliance. CAEDS forged a new co-operative partnership between EIC, Indian and Northern Affairs Canada (INAC) and Industry, Science and Technology Canada (ISTC) to ensure a co-ordinated federal government response to development challenges.

INAC and ISTC received new resources of $873 million over five years to develop a variety of community and business enterprises. EIC was to maintain its current spending level for Aboriginal people under CAEDS and was directed by the government to focus on skills development and urban Aboriginal employment through the Canadian Jobs Strategy.[3]

Aboriginal organizations are concerned about what new role EIC will play in the crucial human resource development needs of Aboriginal communities. This uncertain future is further complicated by a history of problems that Aboriginal communities and groups have with the effectiveness of CJS program options and EIC employment services.

Out of these concerns the Aboriginal Employment and Training Working Group (AETWG) was established. The working group consists of representatives from six national Aboriginal organizations, Aboriginal training representatives from all regions of Canada, along with representatives from EIC national headquarters and regional offices.

The AETWG mandate is to review EIC programs and services for Aboriginal people, participate in the design of new programming and make recommendations to improve and rationalize the entire Aboriginal training and employment effort from program design to delivery.

In light of the Labour Force Development Strategy and other EIC-related strategies, this is a well-timed initiative. EIC will be in a better position to respond effectively to the serious labour market needs of Aboriginal clients by designing with Aboriginal input from the ground floor.

This background document examines the issues concerning the effectiveness of EIC programs and services for Aboriginal people. Many of the issues discussed are long standing ones between EIC and Aboriginal people. Some are outlined in the 1977 EIC *Development of an Employment Policy for Indian, Inuit and Métis People* policy paper. Others are included in the 1988 EIC Quebec Region *Regional Native Employment Strategy* policy document and the 1988 EIC British Columbia Native Employment Advisory Committee's British Columbia Native Employment Strategy Innovations proposal. Many of these issues were also articulated in CAEDS' development process in early 1989. In addition, over the past five years a number of large and small urban and reserve Aboriginal organizations have written to EIC from various regions of Canada outlining their difficulties with EIC programs and services. Many of these concerns have been incorporated into this paper.

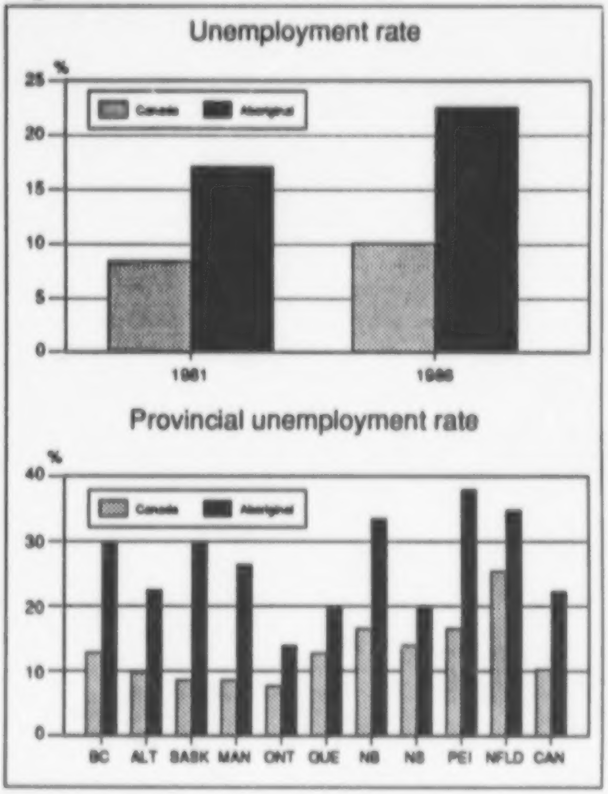
New programming has yet to be designed and there is a lot of scope to "get it right".

For EIC this is a golden opportunity to change its basic business relationship with Aboriginal people, to get in step with the changes occurring in Aboriginal communities and create a process to more effectively address Aboriginal labour force and market needs. EIC and Aboriginal leaders and organizations must work together to create a new climate of understanding needed to foster meaningful human resource development changes.

1 Problems and Strategies

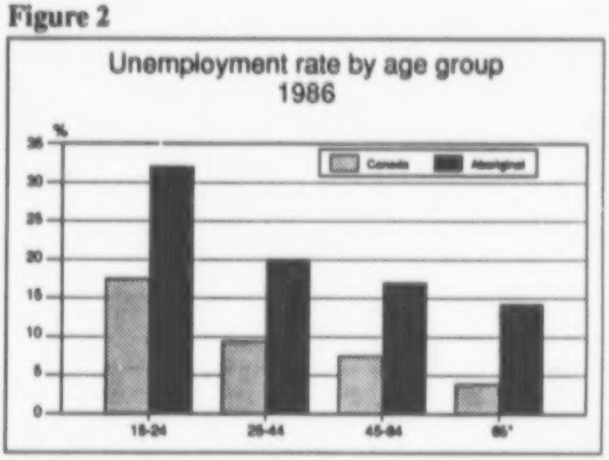
Judged from a variety of socio-economic indicators, the employment and training needs of Aboriginal people are dramatic when compared to non-Aboriginal people. **An analysis of 1986 Census data estimated that 5,000 Aboriginal people must enter the paid labour force each year over the next five years in order to maintain the current unemployment rate for Aboriginal people - a rate already double that of the national average.**[4] In some areas of the country the rate of Aboriginal unemployment and underemployment is five to six times higher than the rate recorded for non-Aboriginal people.[5]

Figure 1



Source: Statistics Canada, 1986 Census, unpublished data

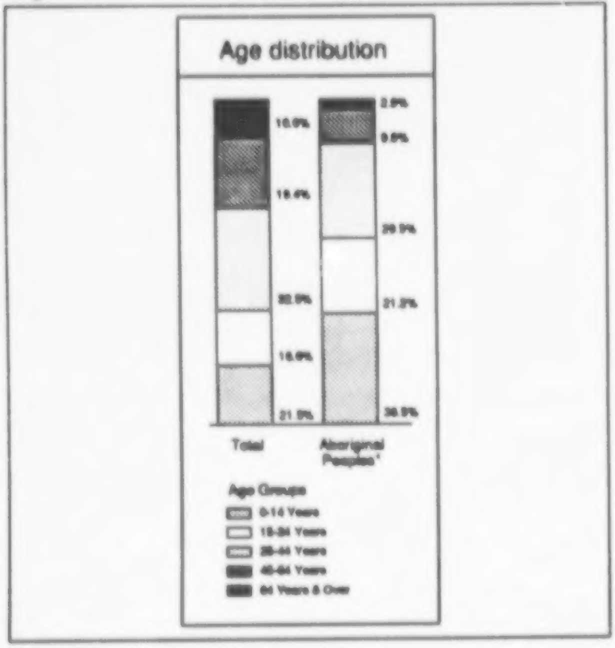
Figure 2



Source: Statistics Canada, 1986 Census, unpublished data

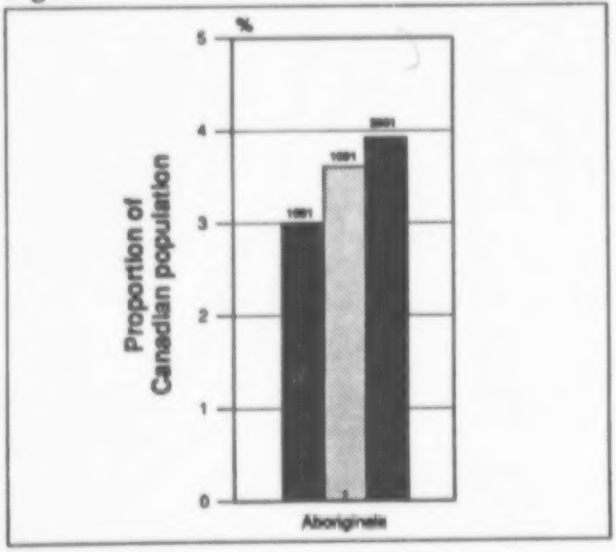
Furthermore, the Aboriginal population is much younger. While the Canadian population moves toward retirement age over the next 10 years, the Aboriginal population will experience growth in the number of individuals who reach working age.[6] The Canadian economy cannot afford to marginalize this supply of new entrants according to the government's own demographic scenario outlined in *Success in the Works.*

Figure 3



Source: Census of Canada, 1986 and HALS

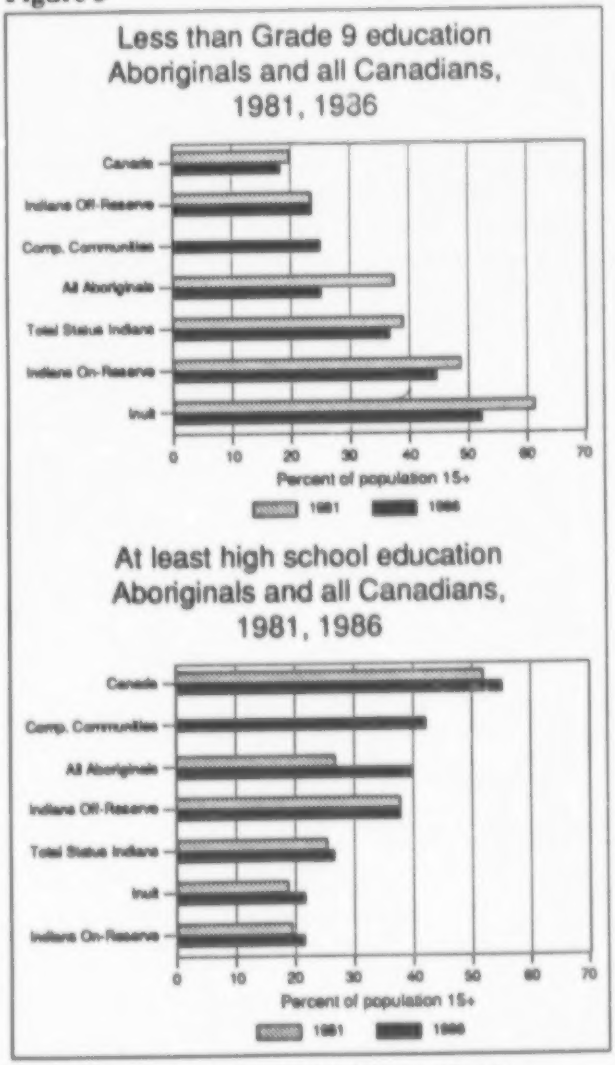
Figure 4



Source: INAC customized data based on 1986 Census Data

Education will also play an important role in the participation of Aboriginal people in the Canadian labour market. Aboriginal people with grade 12 are almost twice as likely to find employment as those with lower educational achievement. However, the current rate of Aboriginal illiteracy is over two times the national average and the grade 12 completion rate for Aboriginal people is half the rate of non-Aboriginal people. Based on the age structure, the number of Aboriginal people who do not complete grade 12 is expected to increase over the next 20 years - particulary in areas of the country with large concentrations of Aboriginal people.[7]

Figure 5

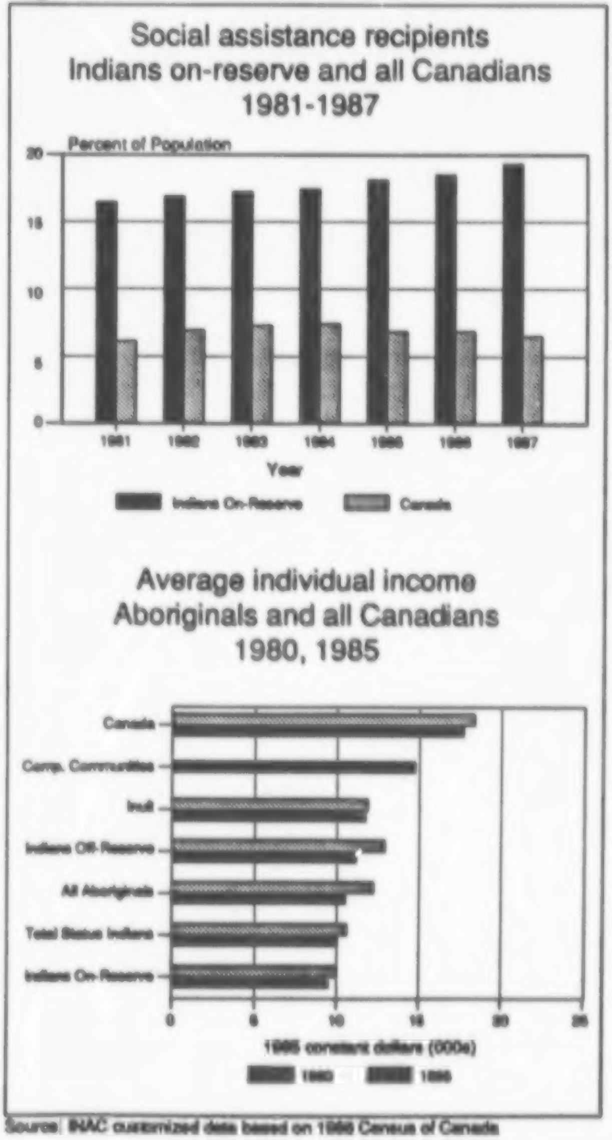


Source: INAC customized data based on 1986 Census of Canada

For Aboriginal people, the consequences of high unemployment and low educational attainment are profound. **Aboriginal income levels remain one-half to two-thirds that of non-Aboriginal people and social assistance or welfare rates are more than twice the national average.**[8]

Combined with other factors (e.g. housing conditions, community infrastructure), a picture of serious economic inequality emerges. Again, as increasing numbers of Aboriginal people reach working age, it is predicted that the situation will deteriorate, unless the participation of Aboriginal people in the labour market improves in coming years.

Figure 6



Source: INAC customized data based on 1986 Census of Canada

The social costs associated with high unemployment, impoverished living conditions, dependency on social assistance, and low educational attainment are exceedingly high. The alarming incidence of family violence was revealed in a recent report by the Ontario Native Women's Association. Eight out of 10 Aboriginal women were victims of spousal abuse. Often their victimization was related to alcohol use.[9]

Moreover, suicide rates among Aboriginal people are three to four times the national average. A similar trend is evident for rates of incarceration of Aboriginal people in provincial and federal penitentiaries.[10] It has been estimated that Aboriginal people are 700 times more likely to be incarcerated than non-Aboriginal people.[11]

Many of these social problems may be attributed to a lack of meaningful activity in the lives of many Aboriginal people and particularly the youth.

Aboriginal Women

The socio-economic difficulties and resulting social impacts are even more pronounced for Aboriginal women. Personal, community and systemic barriers attributed to a lack of self-esteem and lack of support and access paint a particularly grim picture.[12]

Aboriginal women's income levels and labour force participation rates are approximately two-thirds that of Aboriginal males.

Aboriginal women are also more likely to face unique socio-economic difficulties resulting from being the heads of single families. Aboriginal women head approximately 90 per cent of Aboriginal single families off-reserve. This represents more than twice the percentage of single parent families headed by women in the general Canadian population.[13]

Aboriginal women have an overall poorer quality of life since they often head single families and must deal with inadequate child care, poor housing and other socio-economic factors.

Further, this debilitating lifestyle is often perpetuated by Aboriginal children whose own futures are made uncertain by the realities of their family situation.

Strategies

The problem of lack of meaningful activity in the lives of Aboriginal people and the barriers to achieving their potential can be effectively addressed through individual and community-based resource development. By providing access to training and employment opportunities, Aboriginal people and communities will become more responsible and accountable for their lives.

In order to be successful, the capacity to deliver and control these training and re-employment actions should be in the hands of Aboriginal communities and organizations. Such an approach would ensure that training and employment activities will be well-suited to the needs of Aboriginal people.

This approach to Aboriginal labour force development is consistent with other community development initiatives which have been successful in Aboriginal communities. Despite the unequal socio-economic position of Aboriginal people in Canadian society, much progress has occurred in the past few years. Bands, tribal councils, and other Aboriginal organizations, operating within limited resources, have developed methods for meeting the labour force requirements of their members.

The Meadow Lake Tribal Council in Saskatchewan and its member bands currently provide 450 jobs and another 240 indirectly through a mix of Indian government and tribal council and band community-based enterprises. In Ontario, the Bay of Quinte Band operates a printing business and manufactures and sells micro-computers through the First Nations Technical Institute. The Limestone Training and Employment Agency in the province of Manitoba provides skills training and placement services for the Limestone generating stations.

There are many other success stories of Aboriginal community development. Overall, Aboriginal communities and their people contribute significantly to the Canadian economy through at least 6,000[14] Aboriginal-owned enterprises in Canada and an estimated $2 billion in annual expenditures.[15]

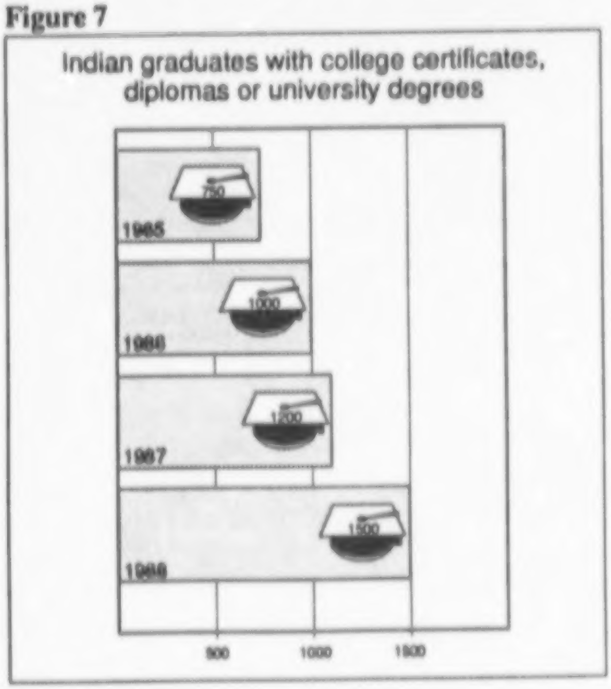
In support of these initiatives, Aboriginal communities and organizations are taking control of educational and training programs offered by non-Aboriginal groups. Aboriginal people are designing their own programs to meet growing labour force and community development needs.

At the elementary and secondary levels, the number of children attending band-operated programs has doubled.[16] Aboriginal urban education programs have also emerged. These activities reflect the priority that Aboriginal communities and organizations place on ensuring that the education of their youth satisfies their human resource requirements.

There are currently 15 Aboriginal-controlled training and educational institutions that conduct a variety of training programs ranging from literacy to aerospace technology. In addition, various Aboriginal organizations purchase specific training or educational programs from technical institutes, community colleges, universities and private training institutions.

There has been a three-fold increase in the number of post-secondary Status Aboriginal students in the last decade.[17] This trend may be assumed for other Aboriginal people.

Figure 7



Indian graduates with college certificates, diplomas or university degrees

Source: Indian and Northern Affairs

The increasing development and control of community-based training, employment and educational programs supports the progressive goal of Aboriginal self-government and self-determination. These objectives require a trained and stable labour force as well as the commitment from government to transfer responsibilities to Aboriginal communities.

At the government level, Indian and Northern Affairs Canada (INAC) plays the lead role in these political developments. Through its Alternative Funding Arrangements, the department provides bands and tribal councils with funds to offer a wide range of community economic, social, educational and training services. However, other departments are also expected to provide proactive support. Health and Welfare Canada, through its transfer of services policy, assists Aboriginal communities to develop the capacity to deliver their own health care services. The Secretary of State continues to provide Friendship Centres and Aboriginal organizations with support for providing advisory or program service to off-reserve, non-status, and Métis people.

The training and employment needs of Aboriginal people are addressed by EIC through many programs and services available to all Canadians. As a special group under the Employment Equity policy, additional support is available to Aboriginal clients.

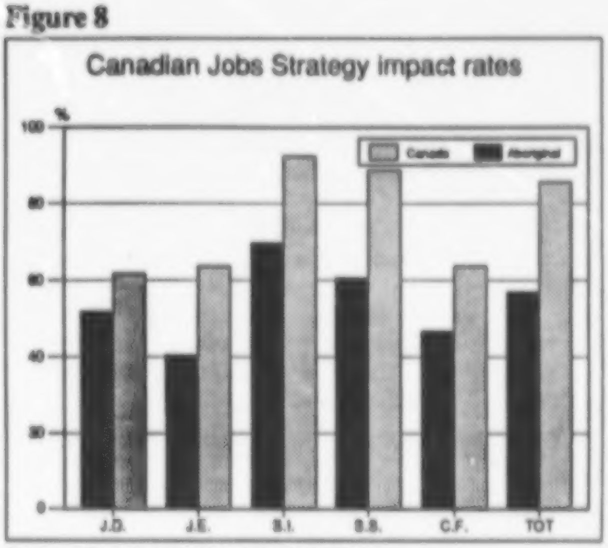
Over the last three years, about $139 million per year was spent on programs under the Canadian Jobs Strategy (excluding the Innovations program). About $15 million was expended in this period on the Aboriginal Innovations projects and approximately $15 million on Outreach-related activities. Additional training and employment resources were directed to individual Aboriginal clients through various services at Canada Employment Centres, where some 70 Aboriginal employment counsellors are employed.[18]

Beyond these activities, EIC has the responsibility for implementing the federal government's Employment Equity legislation. As a result, EIC equity consultants work with federally-regulated employers and corporations covered by the Federal Contractors Program.

Aboriginal people believe that the effectiveness of the policies and programs can be enhanced through more meaningful Aboriginal input into the formulation of policy.

The significant resources devoted to Aboriginal employment and training do not necessarily meet the human resource development plans and labour market objectives of Aboriginal people.

Figure 8



Source: EIC, CJS–MIS 1988-1989 follow-up data

Success, as measured by further training or employment, because of EIC's expenditures on Aboriginal people, remains almost half the average for non-Aboriginal people.[19]

Aboriginal participation rates appear to be dropping in certain CJS programs despite the desperate labour force needs. Many Aboriginal people remain outside the services of local CECs because of uncertainty about the CEC's attitude toward Aboriginal people.

Aboriginal representation in EIC's workforce is less than two per cent despite significantly higher targets.[20] Many of these people work in low level clerical positions and are term employees. In the Federal Contractors Program the rate of increase in the last year significantly lagged behind the growth of other special groups.

Every indicator suggests that a more effective way of doing business with Aboriginal people needs to be developed. EIC is willing to achieve a more positive relationship with Aboriginal people, one that will result in a more successful outcome in terms of both the supply and demand side of Aboriginal labour market adjustment. These efforts are highlighted by: EIC's Northern policy with the Dene, Métis and Inuit; the development of new arrangements for programs and services to the Kativik regional government; the B.C. Native Employment Strategy; and the limited use of Aboriginal controlled training co-ordinating groups.

Building on the success of these and other Aboriginal and EIC initiatives should be part of a national strategy that involves Aboriginal people from across Canada. The Labour Force Development Strategy (LFDS) offers EIC and Aboriginal people the opportunity to develop this partnership.

Both partners agree that the labour market needs of Aboriginal people are critical and that Aboriginal people are a vastly underutilized and undeveloped human resource in Canada. Addressing these issues will require changes in EIC's way of working with Aboriginal communities and correspondingly, Aboriginal people will need to take responsibility and be accountable for results.

2 Review of the Canadian Jobs Strategy (CJS)

EIC's Canadian Jobs Strategy (CJS) comprises selective labour market interventions focused on clients whose needs are greatest; individuals, employers and communities. The CJS focus to "help where it is most needed" has two dimensions - assistance for selected high priority clients and equitable participation by members of special groups. The improvement in the position of special groups (women, disabled, visible minorities, Aboriginal people, youth and social assistance recipients) is an integral element of the strategy.

Since its inception, CJS program options and criteria have created significant frustrations for Aboriginal people and communities. These irritants, combined with program delivery problems, have restricted access to CJS training options and more importantly, have negatively affected impact rates for those who do qualify.

Some of the leading concerns raised by Aboriginal groups about CJS program options are:

- the lack of support for human resource planning except through co-ordinating groups and Community Futures Committees;
- the array of criteria that must be met by individuals and groups to access programs, including the need for employer subsidies in certain options;
- the type and length of allowable training;
- the complexity of developing proposals for small urban organizations and isolated band communities; and
- the lack of knowledge Aboriginal communities have on what resources are available to them in developing or implementing projects.

These conditions often cause Aboriginal clients and communities to spend enormous amounts of time and energy trying to tailor their training needs to EIC criteria at the expense of their own needs and those of their community. If changes for the effective use of CJS are to be made, EIC should tailor CJS to the training needs and plans of Aboriginal clients and communities.

Specifically, the following CJS issues should be addressed in order to provide a suitable process for greater participation and productive use of CJS program options by Aboriginal clients, organizations and communities.

A) Human Resource Planning

Except for co-ordinating groups and Community Futures Committees, there is no provision for human resource planning within CJS. In Aboriginal organizations and communities this means CJS programs are used mainly on a project-by-project basis that may or may not coincide with the community's human resource development needs. This becomes a particular problem when Aboriginal communities are trying to build EIC-CJS programs into an overall community development strategy and cannot, because EIC funds are gone or the community planning objectives do not meet CJS criteria.

Greater control of federal government community development resources are increasingly flowing to bands and tribal councils such as INAC's Alternative Funding Arrangement and Health and Welfare's Health Transfer Services. EIC can get in step with these developments by providing bands and tribal councils with human resource planning and program support funds so they can determine and deliver appropriate training programs for their communities. This approach would enhance the community's ability to meet its labour force development needs in a comprehensive way.

Currently, EIC provides human resource planning and labour market analysis support through the co-ordinating group model in CJS. Co-ordinating groups purchase training as third parties through private or public institutions on behalf of clients within the parameters of the Canadian

Jobs Strategy criteria. The co-ordinating groups identify the trainees as well as the type of training needed for their local labour market.

There are 10 Aboriginal co-ordinating groups in Canada (out of 132) with expenditures in 1988-89 of $7 million (out of a total of $836 million). Others are under discussion with EIC. From all accounts, EIC regional officials are pleased with the co-ordinating groups' results in identifying trainees and purchasing training for clients.

Co-ordinating groups develop training plans and labour market analysis. This process ensures that the training is related to the labour market. EIC reviews and approves the plans before providing funds. Co-ordinating groups administer the funds and provide EIC with financial and training reports prior to renegotiating the next co-ordinating group agreement.

Another positive aspect of the co-ordinating group option is the administrative capacity that is built into the process. Co-ordinating groups receive funding support as a percentage of the total agreement for administration and overhead. These funds are used for counselling and co-ordination of the group's activities as well as for normal operating expenses. This enables groups to build the capacity within their organizations to carry out their objectives.

For Aboriginal organizations, the co-ordinating group model offers them the opportunity to plan, analyse, identify, administer and purchase training needed by Aboriginal people in their local communities.

This model helps Aboriginal organizations, bands and tribal councils in their human resource planning by identifying appropriate training for Aboriginal people relevant to their labour market needs. It also helps build the capacity of these groups to assess clients relative to the distinct cultural background of Aboriginal peoples, as well as negotiate the type of training that works best for them. The training institute is accountable to the co-ordinating groups by ensuring that the training addresses their needs.

Greater use of the co-ordinating group model by EIC would assist Aboriginal groups on a number of fronts. It would build in human resource planning and labour market analysis relative to the training needs of the development of the community. It would enable organizations acting as co-ordinating groups to assess the particular training requirements of clients. It would build the capacity of local Aboriginal organizations to act as human resource developers, and would ensure that the training purchased is directed to the human resource plans of the community and the local labour market.

Under LFDS, a proposed human resource planning policy will assist various sectors in Canada facilitate short and long-term human resource development plans. Having different sectors of the economy plan their human resource needs would help determine future employment and training requirements.

Aboriginal bands and tribal councils are important sectors of the overall economy. Their unique labour market potentially crosscuts a number of sectors and is directed to the band and tribal councils' overall economic development goals. **Access to human resource planning programming under LFDS would assist bands and tribal councils address human resource development needs within their community.** To some extent this would alleviate the current CJS project-by-project approach and allow band and tribal councils to do more planning and utilize EIC programs in a more productive manner.

In addition to bands and tribal councils, LFDS human resource planning programming should be accessible to the growing Aboriginal private sector. **According to INAC, more than 60 per cent of the approximately 6,000 Aboriginal-owned businesses in 1986 were in the service sector.**[21]

These small, developing enterprises would benefit from human resource planning projects and could assist in providing employment training for Aboriginal people entering or marginal to the labour force. In addition, the Canadian Aboriginal Economic Development Strategy (CAEDS) - business development component supported by Industry, Science and Technology Canada (ISTC) will assist new Aboriginal entrepreneurs and community generated enterprises with business development projects over the next five years. This will increase the number of Aboriginal businesses in Canada that offer potential employment opportunities for Aboriginal people.

EIC should utilize resources within the LFDS human resource planning to assist the growth of these Aboriginal private sector enterprises. This would enable them to develop human resource plans relative to the anticipated growth of their business. In the case of community owned business, the need to develop these human resource plans could tie directly into the training objectives for the growing number of labour market entrants predicted for the coming years.

B) Eligibility and Access

CJS options' criteria have presented Aboriginal people, groups and communities with certain barriers that affect the accessibility and effective use of CJS. This is not to suggest that CJS has not been used; it definitely has. However, EIC's objective CJS clients appears to be at odds with the training and employment realities of Aboriginal people.

The 24-out-of-30-week rule in the CJS Job Development (JD) option is seen to prevent clients with viable training needs and excellent job prospects from gaining access to a training project or individual training program. This particularly impacts on organizations and communities which have identified a particular person or group of clients for a Job Development training program, only to find that the client or group of clients are ineligible. The identified persons may be marginal to the labour market but have had the "misfortune" of working some time during the past six months. Further, the training project could be of great benefit to the sponsor if they could identify trainees who are personally ready for the training planned.

The rule is also seen to inhibit Aboriginal groups from determining how particular training projects or individual clients can fit into the overall human resource planning of the community or organization. Often, the project or individual training program has to be adjusted to meet EIC criteria rather than the labour market prospects of the client or project trainees.

As a result, some Aboriginal organizations use Job Development group projects as a means of short term job creation rather than meaningful training linked to labour market needs. This does not help the community or individual trainees address needs that the project was intended to accomplish and often leads to another unsuccessful human resource development venture. Nevertheless, the community or sponsor can get a number of people off of social assistance and into a project, and some positive work in the organization or community can be accomplished.

The exclusionary conditions established by EIC to deal with Job Development clients based on those most in need is perceived as arbitrary when looking at levels of unemployment in Aboriginal communities. It may be safe to assume that, given the labour market conditions of Aboriginal people, those most in need represent a lot more people than those who have been out of work 24 of the last 30 weeks.

Recognizing this fact, EIC has amended the 24-out-of-30-week rule to give CEC managers the ability to waive the conditions on up to 10 per cent of Job Development clients. Unfortunately, it appears from the regions that the rule is waived for less than one per cent of clients.

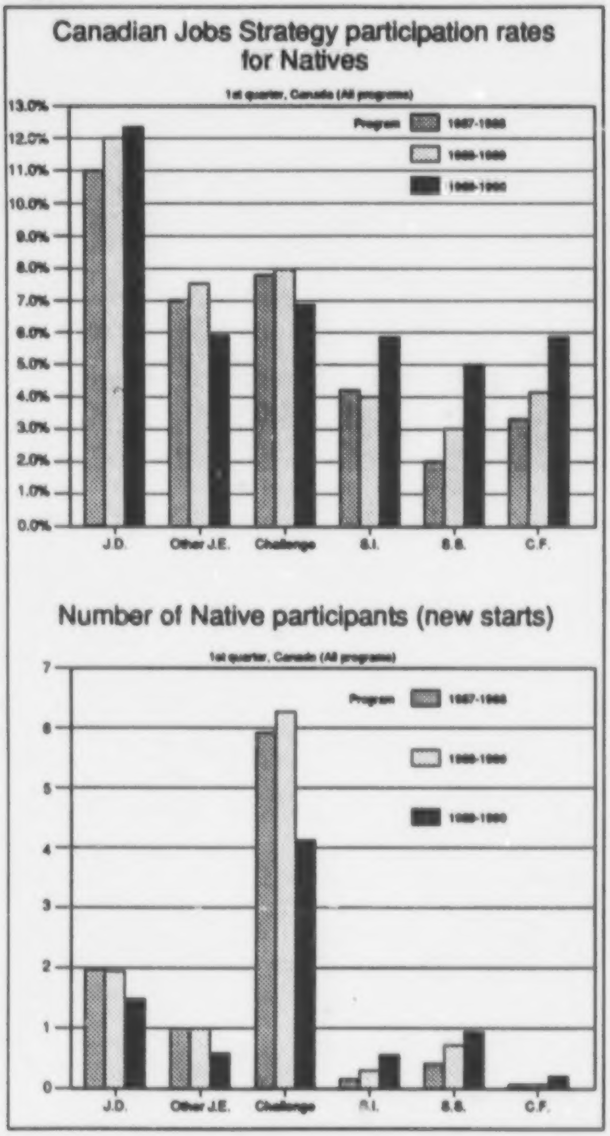
Barriers to the use of the Skill Shortages (SS) and Skill Investment (SI) programs by Aboriginal communities and organizations have been identified. These two programs were established primarily to assist the private sector retrain employees for new skills needed in the workplace or for designated skills where shortages exist in regional or national labour markets. Both programs require a wage subsidy from the employer for workplace training or retraining, and the ability to back-fill (temporarily replace) the worker while doing off-site training.

These conditions make the program especially difficult for Aboriginal organizations which are primarily public sector groups or non-profit agencies. On the one hand, funds to support the wage subsidy are difficult to find in organizations designed not to show a surplus and which must return any profits to the funding source. On the other hand, costs associated with back-filling the position - let alone finding a suitable replacement - are often prohibitive. As a consequence, Aboriginal participation in both options is approximately one-half to one-third the rate for Job Development and Job Entry (JE), even though the impact or success rate is significantly higher than Job Development or Job Entry options.[22]

The designation of occupations on the Skill Shortages list and the Training Trust Fund option in Skill Investment are particularly irritating to Aboriginal communities in need of developing a depressed human resource base by expanding the opportunity available to them for training. **The Skill Shortages designation list does not take into account the unique labour market of Aboriginal communities and the link between that labour market and the skills required to develop it, by determining designations based on the general labour market shortages or anticipated shortages.**

Statistics indicate that Aboriginal people are seriously under-represented in all occupations surveyed by the EIC Employment Equity Branch in 1989 in relation to their total representation in the labour market (except semi-professional and technician and skill craft and trades).[23] The end results are obvious.

Figure 9



Canadian Jobs Strategy participation rates for Natives

Number of Native participants (new starts)

Source: EIC Statistical Bulletin for the Canadian Jobs Strategy

Designated occupations on the Skill Shortages list hold priority over the needs of individual Aboriginal people or the community labour force development plans, irrespective of the inequitable position of Aboriginal people in the overall labour market and the specific job training objectives of Aboriginal communities. **People capable of benefitting from skills training through the Skill Shortages direct purchase are denied it and prevented from competing in the general labour market with job skills.** In addition, Aboriginal communities capable of employing members once trained, cannot access Skill Shortages training because the general, non-Aboriginal labour market has an abundance of trained people in the specific occupation.

The process has been improved since designations may be added directly to lists at the regional level following a labour market analysis. Decentralization has reduced the average time it takes to list designations, from more than one year to three to six months. **Currently there are 29 Aboriginal specific national and regional designations out of a total list of 676.**

Under Skill Investment the Training Trust Fund option holds great potential for addressing Aboriginal labour force development. This option, however, is directed to profit-oriented enterprises that can contribute to the total cost of the fund. The financial resources within most Aboriginal communities makes this difficult. Nonetheless, the direction of community-based Aboriginal training and employment development could be most useful for the training or retraining of Aboriginal people working in a community enterprise or organization.

The Job Entry Co-operative Education option is another program component that could be beneficial in the development of Aboriginal human resources. However, the contribution required by the recipient, the definition of who is eligible, and the conditions imposed are perceived as a barriers. As with other recipient contributory programs, the funding required to implement a co-operative education project falls on a cost-shared basis with, in this case, post-secondary or secondary school institutions. The intention for EIC is to contract with a school division, community college or university that has access to funds necessary to receive EIC's contribution.

In Aboriginal institutions - none of which are public except the Federated College in Saskatchewan - the ability to provide funds is very limited. Band and tribal councils are eligible if they operate a secondary school board, but they are restricted by budgetary constraints given their scale of operation in comparison to a large public school, community college or university.

These constraints inhibit an excellent programming option for Aboriginal training organizations, bands and tribal councils. The use of co-operative education funds could provide Aboriginal students/trainees with another access point to the labour market through a work-study process. This would assist them in gaining employment skills in a manner that reflects Aboriginal learning styles. Further, the development of Aboriginal specific co-operative education programs could help communities train young people for employment in community enterprises and government, as well as provide greater opportunities for non-Aboriginal private sector groups to hire trained Aboriginal people.

C) Community Futures and Innovations

Both of these CJS program options represent unique strategies for Aboriginal labour force development and have been successful in the limited impact they have on Aboriginal communities and groups.

Community Futures (CF) offers a comprehensive long-term approach to resolving chronic unemployment in a selected community by offering a mix of options including planning, training, business development, community and individual initiatives.

In September 1990, there were 11 Aboriginal communities involved with the CF program (out of 212).[24] Most were continuations of the former Local Employment and Assistance Development Program. It appears that Community Futures designations have been particularly difficult for Aboriginal communities to achieve. The problems revolve around issues related to: the population levels of Aboriginal communities; diverse geographic location when combined along tribal council lines to increase population levels; the perceived lack of cohesiveness in Aboriginal communities or tribal councils; the lack of potential in redeveloping the communities economically; and other assessment factors. The EIC approach has been to incorporate Aboriginal communities into larger Community Futures designations.

From an Aboriginal perspective, Community Futures designations are restrictive even when Aboriginal communities and tribal councils have demonstrated they meet all the criteria. They argue that some Aboriginal communities or groups of communities appear to get Community Futures status while similar ones in other parts of the country do not, although they share a common labour market profile. Also, the current criteria for Community Futures designations prevents metropolitan areas from using the program. The Community Futures model, however, would be interesting to use in urban areas, particularly in the west where Aboriginal unemployment reaches 50 per cent or more in certain cities.[25]

Unemployment in Aboriginal communities is often at least twice that of non-Aboriginal Community Futures communities. Therefore, the inclusion of Aboriginal communities within larger non-Aboriginal Community Futures areas means that unique labour market needs of Aboriginal communities may not be met.

The major benefit of increasing the number of Aboriginal Community Futures designations is the community-controlled human resource and economic development potential it holds. By linking the key elements of planning, training and enterprise development, committees can address the destiny of their communities in a holistic manner, rather than a piecemeal fashion. **Community Futures seems an ideal vehicle for Aboriginal communities, but many Aboriginal communities feel largely excluded from participation.**

Innovations, a special component of CJS, has supported new training and employment approaches, often at the Aboriginal community level. This program option provided $15 million out of a total of $176 million to Aboriginal groups or non-Aboriginal organizations acting on behalf of Aboriginal organizations.[26]

Many valuable Aboriginal training and employment experiments not available through other CJS options were tested through Innovations. **They have proven many approaches to Aboriginal labour market needs developed and delivered through Aboriginal communities and organizations can be successful and should be incorporated into other CJS criteria (literacy, business development, employment services, counselling and assessment of clients for training purposes).**

The knowledge gained through these pilots has not always been shared with other Aboriginal communities and organizations, or with other levels of government and non-Aboriginal training institutions. As a result, other Aboriginal communities with similar training and employment spend time and money recreating the wheel.

Further, the fact that the approaches tested are not in the mainstream of CJS inhibits their use by other Aboriginal groups. By not networking or incorporating new initiatives for Aboriginal people into regular programming, the effectiveness of Innovations as a research and development tool for Aboriginal people and EIC has been compromised.

D) Lengths and Types of Training

As discussed previously, CJS eligibility rules and criteria pose certain technical problems which can act as barriers to effective use by Aboriginal people and communities. This is demonstrated by low impact rates. Other irritants within CJS further distance Aboriginal people and communities from successfully using the mix of options needed to address training and employment requirements.

A fundamental concern is the lack of access to literacy training despite a level of illiteracy among Aboriginal people that is two to three times the national average. **Government and business leaders have expressed deep concern over illiteracy in the general population. Aboriginal leaders are faced with an alarming situation.** And the high number of Aboriginal drop-outs from secondary school in relation to non-Aboriginal people warrants a dramatic need for adult basic education leading to secondary school completion.

Both concerns relate directly to the needs of Aboriginal people and communities for a trained labour force. Competency in basic skills opens new avenues for skills training and effective use of vocational programs for employment purposes. Denying access to literacy and adult education is a guarantee for continual employment marginalization and social assistance.

EIC does not allow access to literacy training in any CJS programs except for portions of the in-class programming associated with Job Entry options. Even in those programs, the length of time spent on literacy skills is generally too short-term for actual literacy development.

The rationale for EIC's position on literacy training has been twofold. First, literacy training alone does not directly lead to labour market participation, and secondly, literacy and basic training are provincial responsibilities.

In both cases, it could be suggested that EIC is correct in its policy perspective on literacy. It is unlikely that a person who learns to read, write and compute at a comparable grade 10 level (completion of grade 9 is defined by UNESCO as a benchmark for literacy) is ready for the job market. In most cases, people who have successfully learned these basic skills have no labour market skills per se. However, it can be argued that reaching these minimum literacy levels provides individuals with confidence in their ability to learn and the motivation to continue learning. Ultimately, this will result in people wanting to pursue further academic training that will lead to skills development and employment. For Aboriginal people this fact is undeniable. According to a study by Indian and Northern Affairs, status Aboriginal individuals with grade 12 had an employment rate of 54.3 per cent while for those without grade 12, the rate was 33.2 per cent.[27]

Since literacy is an educational and not a training issue, the federal government maintains it is a provincial responsibility. However, this does not necessarily translate into more opportunities for literacy training for Aboriginal people.

Other government departments have established small literacy related programs that assist in a limited way. Indian Affairs, through the Indian Community Human Resource Development Strategy (ICHRS), allows on-reserve Aboriginal people to access or establish literacy training. The Secretary of State, through its literacy advocacy program, provides funding to provinces and territories for this purpose. These programs reach only a fraction of the people who need literacy training to prepare them for the labour market. Opportunities for Aboriginal people to re-access the formal training system is lost.

EIC does provide some resources for literacy training through grants to volunteer and non-government organizations. The Literacy Corps program enables these groups to train volunteer tutors for youth in need of literacy skills. In 1989, $1 million was spent in this program out of the CJS budget of $1.8 billion. There were two Aboriginal projects out of the 26 funded.[28]

The conclusions of the LFDS private sector task force on Social Assistance Recipients indicated that **CJS cannot meet its objective of helping the most in need if potential clients cannot access literacy training.**

Research indicates that the community-based, culturally relevant programs that include life skills components are best suited.[29] In 1985, EIC and British Colombia worked with Aboriginal people to design and implement an Aboriginal literacy and life skills curriculum that stands as a model for community-based, culturally appropriate literacy training. The co-operation that resulted in this curriculum led to a number of EIC-funded literacy training programs until EIC discontinued support of stand alone literacy and upgrading programs through CJS.

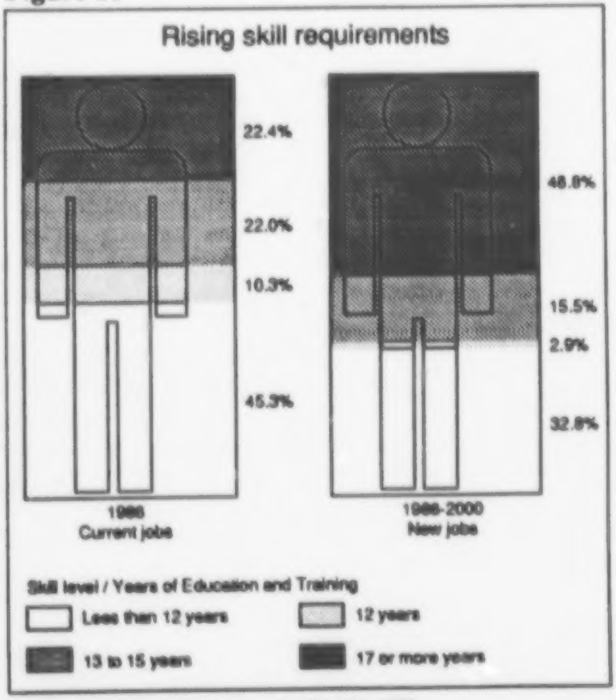
A resolution of the debate over literacy training responsibility is needed quickly. EIC, the provinces and Aboriginal peoples should agree to a plan of action. In this regard, the upcoming federal/provincial/territorial training agreement negotiations are important and literacy will be addressed as an issue.

Literacy and academic upgrading through direct and indirect purchase of training remains a possibility for Aboriginal clients, providing it leads to appropriate skills training. This restriction places the client in a position of having to justify the need for a grade 12 equivalency through a combination of counselling and labour market research. The notion of individuals having attained grade 12 and not wishing to continue with skills training is unlikely.

Given the direct relationship between employment and education, it would appear to be worth the risk to reduce the restrictions on upgrading as a suitable means of preparing clients for the labour market. From an Aboriginal perspective, these restrictions are inappropriate considering the number of people needing such training.

The importance of literacy and academic upgrading as preparatory training for more specific labour market skills training is necessary for all Canadians, particularly Aboriginal people. Between 1986 and the year 2000, 64 per cent of the jobs created will require more than 12 years of training and half of these jobs will require more than 17 years of education and training, according to the federal government.[30]

Figure 10



Source: Employment and Immigration Canada, 1989

For Aboriginal people, the importance of addressing the literacy and basic skills training needs within the context of current and future Aboriginal population growth, educational attainment and unemployment levels is crucial if Aboriginal people are going to gain effective participation in the labour market. Achieving grade 12 levels or competencies with basic skills would enable Aboriginal peoples to meet the minimum prerequisites for further skills or vocational training.

Duration of training becomes an important issue for people requiring literacy and upgrading training when used as a stepping stone to skills and vocational training. The limitations of 52 weeks of training generally associated with Job Development and Job Entry options inhibits the development of long term training plans necessary to provide sequential training experiences.

The belief that a person with a grade 7 or 8 education can be sufficiently trained to the grade 12 level in 52 weeks, particularly if they have been out of school for a number of years, is often counterproductive to the effective use of training resources. This limitation makes access to the successful use of vocational training more difficult. EIC, however, is more lenient in allowing longer training periods for trainees in vocational areas, particularly if the training is in areas designated as skill shortages.

It is worth noting that under LFDS initiatives for older workers, the government proposed extending UI benefits to displaced older workers to obtain high school equivalency training, and that skills upgrading will be extended beyond the two-year limit.

For Aboriginal peoples, the limitation of 52 weeks seems to be even more of a barrier in gaining the necessary competency to access more flexible vocational and skills training programs. This is due to the different tendencies in learning styles that may exist between Aboriginal and non-Aboriginal learners.

Research indicates that Aboriginal people learn best through hands-on, experiential learning activities conducted in and out of the classroom environment.[31] In addition, the need to incorporate cultural and life skills experiences reinforces the identity and self-concept of the learner while building confidence in their ability to achieve success. As a result, 52 weeks may not be enough to prepare Aboriginal trainees to compete effectively in a vocational or occupational training program.

EIC provides up to three years of training for clients with at least five years of labour market attachment or for training in designated skill shortage areas. This length of training provides trainees with the opportunity to develop the necessary skills to compete successfully in the labour market. **EIC should expect higher unit costs if realistic sequential training plans are encouraged, but the payoff would come with impressive gains in impact rates. It is significant that the LFDS Social Assistance Recipient Training (SAR) Task Force has recommended a similar approach.**

It was suggested that with illiteracy at twice the national average and high school completions at half the national average, Aboriginal people require access to training programs appropriate to their cultural background and reflective of their learning tendencies. Failure to do so will continue the nonproductive use of these human resources and continue to condemn a large number of Aboriginal people to marginal employment and social assistance.

E) Resources

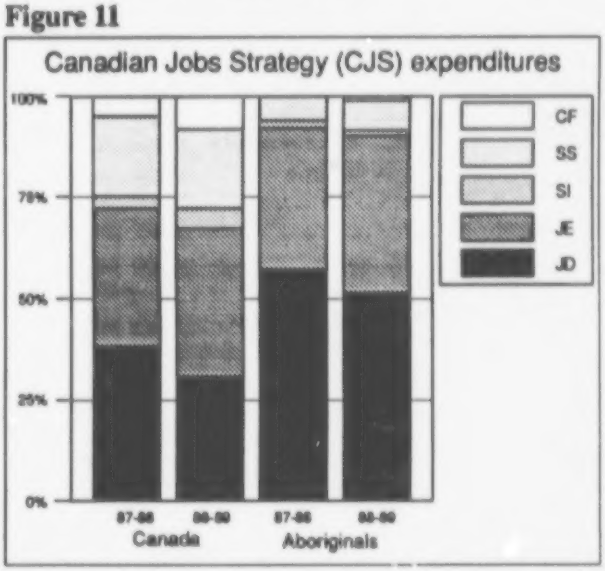
The issue of funding to Aboriginal projects and clients under CJS program options is a complex process to Aboriginal people. Since Aboriginal people are a special group, national, regional and local planning strategies within EIC establish rates of participation for Aboriginal people. These rates are established on the basis of the working-age population and local training needs as determined by the local Canada Employment Centre (CEC) and CJS Operations Centre, in conjunction with EIC regional and national headquarters. In some cases, Aboriginal communities and organizations are included in the EIC decentralized, local planning strategies, as in the B.C. Native Employment Strategy, and where regional and local co-ordinating groups are involved.

The funds allocated under CJS are decentralized in block amounts to the regions and then to the local CEC and CJS operations offices. Flexibility exists within CJS to allocate funds to the different program options based on local labour market priorities.

Over the past five years, funding for Aboriginal projects and clients in CJS has averaged approximately $134 million, with more than 50 per cent of the funding going to Job Development options. However, on a national scale, expenditures on Job Development have been decreasing steadily to 30 per cent of total CJS expenditures (excluding Innovations and Job Creation expenditures).[32] Correspondingly, participation rates for Aboriginal people in Job Development have increased slightly in this period, while total Job Development participation has declined nationally.

EIC has placed more emphasis on Skill Shortages/Skill Investment/Community Futures in terms of increasing expenditures and participation rates on a national level. In 1988-89, these programs represented 30 per cent of all CJS expenditures (excluding Innovations and Job Creation) while Aboriginal expenditures in these three programs represented 10 per cent of the total funds spent on Aboriginal projects and clients.[33]

Figure 11



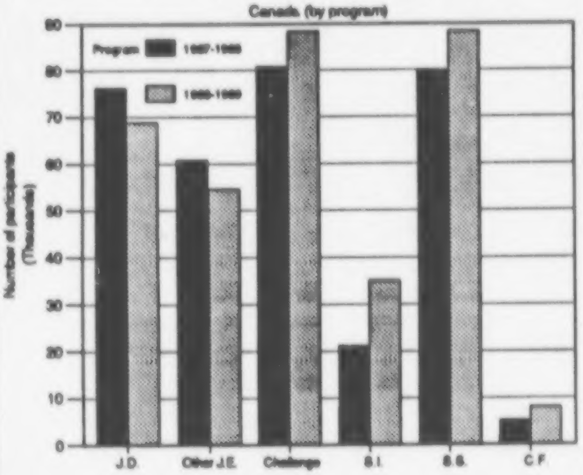
Source: EIC, Statistical Bulletin for the Canadian Jobs Strategy, 1990; EIC, MIS EM 40

Note: Data are estimated on proration of Native participation levels

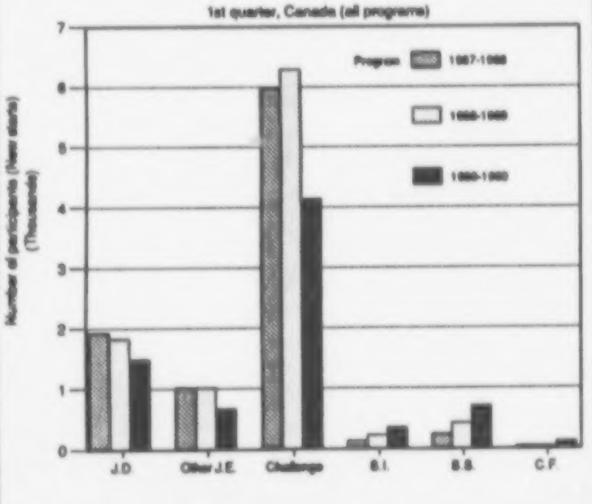
Nationally the level of participation in Skill Shortages, Skill Investment and Community Futures is much higher when compared to Job Development and Job Entry programs. The reverse appears to be true for Aboriginal people. It is apparent that the increasing expenditures in Skill Shortages, Skill Investment and Community Futures has a great deal to do with the labour market effectiveness of these programs compared to Job Development and, to some extent, Job Entry. For Aboriginal people, lower participation rates in Skill Shortages, Skill Investment, and Community Futures options may indicate that eligibility barriers preclude advantageous use of these programs.

Figure 12

Canadian Jobs Strategy
Number of participants (new starts)



Number of Native participants (new starts)



Source: EIC Statistical Bulletin for the Canadian Jobs Strategy, 1990

These trends are generally unknown to Aboriginal groups as are the CJS expenditure levels. The general lack of genuine local participation in CEC and CJS priority setting at all EIC levels is part of the problem, along with information regarding resources and participation rates established by the local CEC/CJS priority services for Aboriginal programs. In places that incorporate Aboriginal groups in the local planning strategies at EIC and where target budgets are known, more effective use of EIC resources by Aboriginal people occurs (B.C. Native Strategy, co-ordinating groups, etc.).

In addition to more effective use of resources, knowledge of the regional and local target participation rates and planned expenditures would enable Aboriginal groups to plan projects reflective of resources available. In B.C., for example, the region allocates a minimum of 16 per cent of its CJS funds to an Aboriginal budget for distribution to its local Native District Advisory Boards.

From an Aboriginal human resource development perspective, one of the most frustrating experiences for an organization or group is to develop a project, often with a mix of funding agencies, only to find out EIC funds are gone or will be used for other purposes because Aboriginal participation rates have already been met.

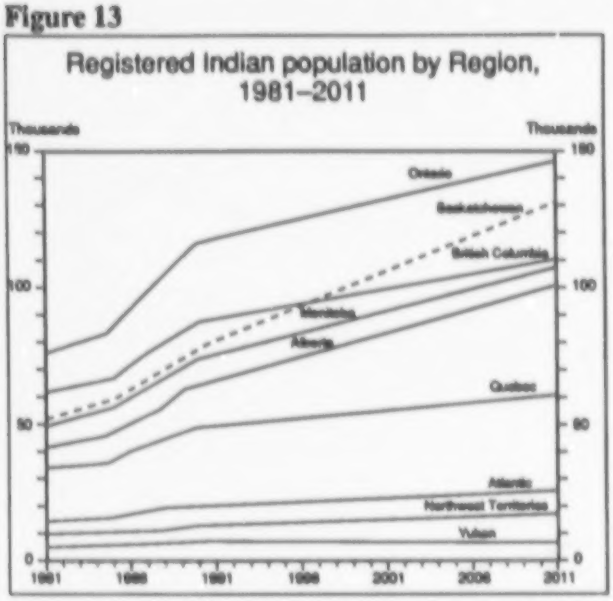
The other issue of concern regarding EIC resources is their year-to-year nature. Because EIC does not have an Aboriginal budget and its funds are distributed to local CEC and CJS offices on a fiscal year basis, projects that require more than 52 weeks of funding are not often possible. This is particularly onerous on Job Development and Job Entry projects which account for 83 per cent of all Aboriginal projects.[34]

The lack of a multi-year planning horizon and related funding can reduce the labour market potential of trainees who, with more training, might be better positioned to find meaningful employment. In addition, the potential for multi-year support for a Job Development project again would enable Aboriginal groups to plan the effective use of this training for future job opportunities in their communities.

The distribution of CJS funds to EIC regions is based primarily on the historical labour market situation and, to a lesser extent, on the region's current level of unemployment. Since Aboriginal populations vary from province to province/territory with high unemployment everywhere, it is argued that Aboriginal budgets should reflect these realities in all CJS program options; provinces with high Aboriginal populations as a percentage of the total population should receive greater resources to support more Aboriginal training and employment initiatives.

For example, based on an Indian and Northern Affairs study of 18-year-old status Aboriginals in Manitoba and Saskatchewan, approximately 20-22 per cent of the 18-year-old population is Aboriginal.

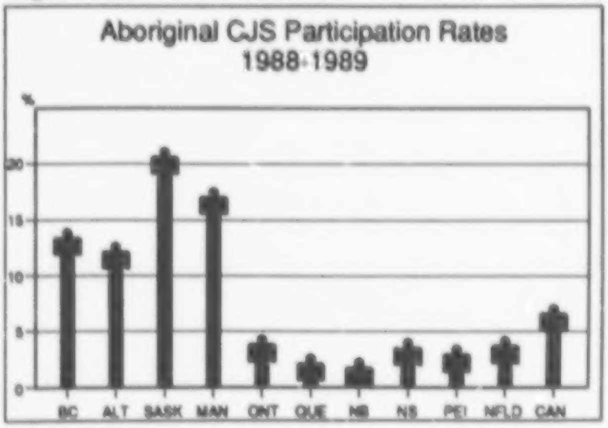
Figure 13


Registered Indian population by Region, 1981–2011

Source: 1981-1986: Data from the Indian Register (INAC), adjusted for the late reporting of births and deaths; 1987-2011: Detailed tables, Part II

This population is expected to grow to 25 per cent in Manitoba and 37 per cent in Saskatchewan over the next 20 years. Yet in both these provinces, the percentage of CJS funds represents between 3.8 per cent and 4.5 per cent of the total amount distributed. By comparison, Quebec receives 29 per cent of the total CJS funds, with status Aboriginal people representing 2.2 per cent of the 18-year-old provincial population - expected in the next 20 years to increase only to 2.3 per cent of the population.[35]

Figure 14


Aboriginal CJS Participation Rates 1988-1989

Source: EIC,MIS

In Manitoba and Saskatchewan, EIC has less flexibility to address the current and future Aboriginal employment and training needs because these regions have less resources. In Quebec, where revenue levels are much higher, more resources can be diverted to Aboriginal training needs without reducing funds available to other groups.

3 Services

In addition to labour market adjustment programs, EIC offers Canadians a wide range of training and employment services. These are designed to assist individuals, the private sector and organizations to meet labour market needs. Employment Services, through its network of 509 Canada Employment Centres (CECs),[36] deliver labour market services, including all or some of the following:

- job information/job referrals (labour market exchange activities);
- counselling (individual or group);
- employer adjustment assistance;
- mobility assistance to job seekers;
- Unemployment Insurance (UI) services;
- specified labour market programs and services to improve client employability; and
- annual local planning with the private sector and organized stakeholders.

These services are generally offered through Canada Employment Centres, although some components are delivered by other operations.

CEC operations employ approximately 5,000 people. Regional officials provide managerial and co-ordinating help as well as administrative services to the CECs.[37] Regional staff work closely with EIC national officials to provide policy and program direction for the multitude of EIC services.

EIC's 28,000 employees make it one of the largest federal government departments, yet EIC's operational structure is client oriented, even at the local community level.[38]

For Aboriginal people, CECs are their main contact point with EIC. Project approvals, counselling, referrals to training, job information/referrals and other labour market services are delivered to Aboriginal people and groups through CECs. In recognition of the special labour market needs of

Aboriginal people, EIC has designated positions within certain CECs and at the regional and national offices to assist in Aboriginal labour market development. These positions are generally in counselling services and liaison.

In addition, EIC consultants work with roughly 1,700 employers on issues related to the Employment Equity Act and the Federal Contractors Program.[39] The Act defines Aboriginal people as one of the four special groups. Federally legislated employers/corporations with employees of 100 or more are required to eliminate employment barriers to them and to implement plans and programs to achieve equitable representation in their work force.

Certain CECs and regions offer more services for Aboriginal people because of large populations of Aboriginal people in their local area, or because Aboriginal labour market difficulties require innovative initiatives. The most notable is the B.C. Native Employment Strategy which uses CJS Operations Centres (part of the CEC network) to deliver Aboriginal projects through designated Aboriginal program officers.

The complex and diverse services offered to Aboriginal clients and groups remain an enigma to most Aboriginal people. One reason is because of the high demand for services placed on CECs generally.

The following issues pertaining to employment services offered to Aboriginal clients are commonly described by Aboriginal people and groups as irritants. These issues are not intended to negate the work of EIC staff whose relationship with Aboriginal clients and groups is highly valued and positive.

Inconsistent service delivery

In a large organization with thousands of direct service employees, it is probable that policies and procedures will be applied unevenly to clients at times. Aboriginal people believe this is generally true of the CECs in their community. To the Aboriginal clients and groups pressing for services to address training and employment problems, the impact can be debilitating.

Many Aboriginal people view CECs like welfare offices where people find reasons to exclude rather than to include those who need assistance. Aboriginal people often seek guidance from others who have used the system on how to approach it and get the help they need. Example after example can be listed of how Aboriginal people have had to "learn" what to say, how to dress, what to do to be included in the CEC service network. Further, EIC Aboriginal employment counsellors can cite examples which describe their difficulties attracting clients to come into CECs.

Some difficulties can be attributed to cultural differences between Aboriginal people and CEC staff. Aboriginal employment counsellors have helped to overcome some of these problems, but the structure and organization of most CECs (size, formality, procedures) alone create barriers to beneficial interaction.

Poor self-concept and low levels of self-confidence add to these difficulties. Long-time unemployed, social assistance dependent and poorly educated Aboriginal people have problems dealing with CEC staff. These clients need counselling and support that recognizes cultural differences as well as their background. Unfortunately, the time required for these in-depth services is not often given. Consequently, Aboriginal clients develop the perception that CECs do not care or cannot help.

Beyond these service perception difficulties is the uneven application of EIC rules and regulations. CECs have flexibility to determine whether EIC policies and programs are appropriate to their client needs. Some CECs use flexibility more than others, which often confuses clients. Applying more restrictive policy and program criteria only adds to the perception of inconsistency, often at the expense of the client.

There are several examples which illustrate the perception of inconsistent service for Aboriginal people at CECs and also show how people of Aboriginal ancestry are assessed for employment service assistance. To better serve a client group that has severe labour market service needs, guidelines for level of service, training of counsellors and flexibility could be built into the operational mandate of the CEC. From an Aboriginal viewpoint, since EIC programs focus on clients most in need, the training and assessment process of CEC counsellors should start by incorporating the realities faced by most Aboriginal clients.

As mentioned earlier, CECs have employed Aboriginal employment counsellors to help deliver appropriate EIC services to Aboriginal clients. Generally, Aboriginal counsellors deal more effectively with Aboriginal people's needs; however, the number of specialized Aboriginal employment counsellors is a small percentage of the total CEC counselling complement. Again, this adds to the perception that CECs deliver unequal and inconsistent services to Aboriginal people and that they lack a commitment to their labour market needs.

Despite these difficulties, CEC job referrals and placements for Aboriginal clients are on a level commensurate with participation figures set in the various regions. In 1988, approximately 2.5 per cent of all clients referred to employment were Aboriginal and 3.2 per cent of all placements were Aboriginal.[40] This reflects the Aboriginal labour market share of 2.1 per cent according to 1986 figures for their working age populations in Canada.[41] These figures raise an important question. Do these figures, which represent the proportion of Aboriginal people among Canada's working age population for job referrals and placements, address the severe labour market needs of Aboriginal people? In CJS, Aboriginal target rates overall represent almost four times their proportion of the working age population - yet, Aboriginal unemployment figures are rising.

Uneven or inconsistent services to Aboriginal groups at the CEC is also a common perception among Aboriginal organizations and communities. Project approval under CJS depends on a number of factors - program criteria, resources and labour market potential for trainees.

The CEC manager's approach is important to this process for project approval. The relationship between an Aboriginal group and the manager may determine how a project is approved. This means similar projects approved by one CEC may be rejected by a nearby CEC. Each CEC sets its own priorities. Project support is based on available resources; however, Aboriginal groups say that approval has little to do with the project proposal and more to do with their relationship with the CEC. Even within local CECs the perception is that certain larger groups gain access to project resources while smaller, less developed ones receive little or no support for legitimate projects.

These perceptions are shaped to a large extent by the ability of the local CEC to communicate and promote its activities to local Aboriginal groups. This relationship varies throughout the country and often depends on the CEC's involvement with Aboriginal groups and vice versa. In areas where CECs and local Aboriginal groups have a proactive partnership through local planning strategies, services appear to be more consistent for both large and small local groups. Where communication is weak and where local planning priorities are determined without Aboriginal groups, the more common perception is that service is uneven.

There is no statistical evidence to support these claims. Groups that have a strong consultative mechanism with the local CEC are in a better position to access projects than those without. Correspondingly, those groups which have the capacity to develop projects without the assistance of CEC staff are also more likely to receive project support. As a result, some Aboriginal groups, particularly those in urban areas, believe that they are at a distinct disadvantage in accessing EIC employment and training services and programs.

Overcoming these perceptions may not be possible given the size of EIC's organizational network and number of delivery points to local Aboriginal groups. Services delivered by the local CEC depend to a great extent on local priorities as well as its sensitivity and understanding of local Aboriginal people and groups.

EIC has recognized some of these problems within its Outreach program. The Outreach objective is to increase the overall employability and eventual employment of workers belonging to disadvantaged groups who can not effectively use CEC services. Outreach offers employment-related services, through contact with community sponsors.

Aboriginal projects are the largest percentage of total active Outreach projects. In 1988-89, there were 93 Aboriginal Outreach projects out of a total of 285. Based on the 1988-89 figures, Aboriginal Outreach projects had a total of 189 employees providing referrals to CECs, employers and non-CEC agencies for programs, services, employment, employment counselling, and employer contacts for job leads.[42]

Outreach projects are very effective for counselling and referral because of the significant community contacts they have with Aboriginal people. They have more difficulty finding job leads and making contact with employers, particularly in more isolated Aboriginal communities. However, based on 1988-89 placement rates, they are generally more effective than CECs in these areas.[43]

A major concern with all Outreach projects is the relatively low level of support by EIC and the marginalization of their activities. This is largely because EIC funds the project workers at a level far below comparable workers at CECs for jobs of a similar nature. In addition, funding processes for Outreach mean that costs for project overhead, administration and related expenses are not adequately supported. As a result, Outreach projects do not have enough resources to support the level of activity they perform or are supposed to perform.

Another complication is the authority Outreach has in the relationship with local CECs. Certain CECs perceive Aboriginal Outreach projects compete for the delivery of employment services. Despite the intended co-operative and complementary relationship, CEC staff generally feel that Outreach overlaps and duplicates their services. In addition, Outreach staff depend on CECs for referrals to programs and services, but find CEC staff difficult to work with on employment service issues. This is partly a result of poor communications and inadequate assessment of client needs.

Both CEC staff and Outreach workers seem to agree that Outreach workers require more training to make their services more effective. Unfortunately, little if any training occurs. One reason is inadequate resources, but another is the perception by EIC that Outreach workers should be fully trained when hired.

Doubling of the number of Aboriginal Outreach projects in the past 13 years clearly indicates that EIC recognizes the value and importance of delivering community based employment services to Aboriginal people.[44] **Although used extensively by Aboriginal clients, they are marginal organizations lacking authority and funding to bring improvements to the labour market situation of Aboriginal people. In addition, workers in Aboriginal Outreach projects need more training, particularly in areas related to labour exchange information and in project administration.**

Possible solutions exist within EIC now. Delivery mechanisms could be used that would make Aboriginal groups more responsible and accountable for the labour market service required by their clients. Existing co-ordinating groups could be used for human resource planning, labour market analysis, individual client assessments, indirect course purchases, payment of training and evaluation of the effectiveness of existing training plans to EIC. If approved, the third party co-ordinating group receives authority to carry out its services.

To support third parties or organizations in delivering CJS programs, EIC offers assistance which includes resources for staff and related overhead costs. This option, available in all CJS programs, enables community-based organizations to deliver EIC programs and services to clients with severe labour market needs.

Recent changes to the CJS Job Entry program allow for third party co-ordinators (or community-based organizations) to provide employment assistance activities for EIC clients who have difficulty competing in the labour market.

Community-based groups and individuals may provide courses or programs such as training in job search techniques, group employment counselling and the assessment of aptitudes and skills affecting a person's ability to participate in the labour market.

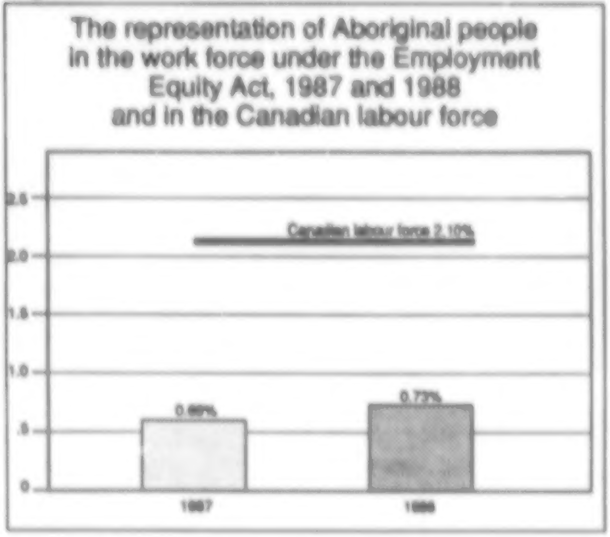
Overall, delivery of Aboriginal employment services should, where appropriate, be through Aboriginal community-based structures, organizations and related groups. This transfer of service should also help community-based structures to build their capacity to work effectively with Aboriginal clients and to offer effective services. By relying on client centred delivery mechanisms, EIC will keep in step with the growing trend of arrangements with third parties and with policies of other federal government departments. Ultimately, the human resource development of Aboriginal people will be the responsibility of Aboriginal community-based organizations. These organizations will be accountable to both their constituents and to EIC.

4 Employment Equity

Employment equity for Aboriginal people in the Canadian labour market is promoted by EIC in two importants ways. First, EIC is responsible for Employment Equity legislation which affects the federally regulated employers and Crown Corporations with 100 or more employees. EIC assists and monitors their employment equity plans and programs which must be reported annually. EIC also administers the Federal Contractors Program which requires contractors who bid on government contracts to identify and remove barriers to selection, hiring, training and promotion of special groups. Secondly, EIC focuses on issues pertaining to the hiring and retention of special group members to work within its own organization.

In spite of these actions, employment equity developments for Aboriginal people have been less than satisfactory. In 1989 the increase of Aboriginal people in federally regulated firms and Crown Corporations was .07 per cent, or an increase from .66 per cent to .73 per cent.

Figure 15


The representation of Aboriginal people in the work force under the Employment Equity Act, 1987 and 1988 and in the Canadian labour force

Source: EIC Employment Equity Annual Report, 1989

The number of Aboriginal employees at EIC declined to 523 in March 1989 from 564 in March 1988. This reveals that Aboriginal employees at EIC make up approximately 1.9 per cent of the total EIC work force and 70 per cent of those jobs are low skilled positions occupied by women. Aboriginal representation was 1.38 per cent at NHQ - a .33 per cent increase from 1988 to 1989, which represents one employee. This figure has not increased significantly in four years.[45]

If representation of Aboriginal people in federally regulated Crown Corporations reflected their working-age population (15-64), then 2.1 per cent should be their minimum representation instead of .73 per cent. The EIC figure of 1.9 per cent reflects a more equitable share in its workforce despite falling short of Treasury Board's target figure of four per cent Aboriginal representation.[46]

Aboriginal leaders are convinced that a sufficient supply of qualified Aboriginal people could be arranged if the process of matching Aboriginal workers to equity needs was pursued through Aboriginal assisted or directed services. A 1988 study indicates that 2,279 Aboriginal job applications were on file with the Public Service Commission. These applicants were deemed qualified for public service officer level positions.[47] Further, Aboriginal enrolment in post-secondary education increased to almost 32 per cent in 1986 from 22 per cent in 1981, which is still below the national post-secondary education level for non-Aboriginal Canadians.[48]

EIC equity needs could be met by providing greater access to employment for Aboriginal people. Programs such as the Native Internship Program and the Designated Group Retention Program could be used much more. In addition, more work experience opportunities for Aboriginal students in secondary and post-secondary programs might be provided by expanding programs such as Co-operative Education and Canadian Opportunities for Summer Employment to include Aboriginal training institutes.

Aboriginal groups could be consulted to ensure that local, regional and national human resource objectives of Aboriginal people fit within the employment equity policies promoted by government. The emphasis in many Aboriginal communities is to ensure that local human resource needs are met through a variety of training opportunities. Considering the growth potential for economic development in Aboriginal communities both on- and off-reserve, it is likely that trained, qualified Aboriginal people will be needed for the Aboriginal labour market. Further, ongoing developments in self-government will expand opportunities in the Aboriginal public sector.

Aboriginal communities and people already represent a significant sector of the Canadian economy that will continue to grow. It is suggested that this sector should receive adjustment support to ensure labour market and human resource growth comparable to other important sectors.

The representation of Aboriginal people in the general labour market is currently quite poor. Proactive steps could be taken to ensure that Aboriginal representation in the public and equity legislated sectors is equal to the Aboriginal percentage of the working-age population. This would be a significant step. However, this step alone will not address the current and potentially worsening Aboriginal labour market crisis. Aboriginal people are increasing their share of the working-age population while the working-age population for non-Aboriginal people is decreasing.

5 Training Allowance

It has been suggested that the issue of training allowances paid to trainees while on EIC training programs has particular impact on urban Aboriginal people, and specifically on women. The income support mechanism is often the most critical aspect of a person's involvement in training. EIC provides a basic training allowance which is below the minimum wage unless a trainee has three dependants. In addition, EIC may pay dependant care allowances based on the age of young children to a daily maximum of $16.00 per child for two children, $10 per day for the third and $5.00 for the fourth. Other allowances are available for people on training programs away from their home location or for commuting to a training location.

The allowances, although supportive of an individual's training commitment, are not adequate for urban Aboriginal people, particularly for those living in areas of higher living costs. Income support below the minimum wage does not reflect financial need, particularly of those people without social assistance top-ups. Further, single women with young children face daycare costs which, in urban areas, are often in excess of the allowance provided.

Aboriginal trainees who receive social assistance may supplement their EIC training allowances with provincial social services to a level equivalent to their total social assistance level prior to training - including daycare top-ups. This practice is not always consistent, and there are cases of social assistance recipients who have their monthly welfare reduced to the level of the training allowance.

Training allowances should not be a disincentive for people taking training. Trainees in urban areas and women with young dependant children should be supported adequately while training for employment. Inadequate support increases emotional stress while coping with other personal issues related to training - self-confidence, returning to school after long absences, etc. Inadequate support can prevent successful completion of a training program and therefore will threaten entry into the labour market.

6 Unemployment Insurance Developmental Uses

According Statistics Canada, in 1986 a total of 56,245 Aboriginal people received Unemployment Insurance (UI) benefits, but only 9,100 were on-reserve. Any redirection of UI "passive" income support to "active" programming such as training, therefore, will likely provide minimal changes to the labour force development needs of Aboriginal people who are on-reserve.[49]

Currently, UI funds can be used as income support for work sharing (section 24), job creation (section 25) and training (section 26 of the Act).

Section 25 helps organizations (profit and non-profit) to create jobs for unemployed workers in specific projects that require a minimum of three workers and a maximum of 52 weeks to complete. Workers receive enhanced benefits while on the project.

The three workers minimum constitutes a barrier for Aboriginal people. Finding three Aboriginal UI beneficiaries to work on a project is often difficult. To find three workers with the qualifying skills is even more difficult.

Overall, Aboriginal participation in UI developmental uses reflects their share of the working-age population (2.1 per cent) and their percentage of UI eligible claimants (2.6 per cent). In 1988-89, for example, 2.1 per cent of Section 26 participants were Aboriginal.[50]

However, one has to question whether this participation will result in reduced levels of unemployment among Aboriginal people. Despite target participation rates that are four times the rates for the national working-age population, CJS programming still remains rather ineffective in changing the severe unemployment among Aboriginal people.

With respect to Section 26, UI beneficiaries or eligible claimants must qualify under one of the CJS options to access training courses. Many Aboriginal people lack pre-requisites for Skill Shortages training because of low education, nor can they use their UI to up-grade themselves, because literacy and up-grading training alone are not allowed under Section 26.

Further, as discussed previously, the Skill Shortages list does not include Aboriginal skills in demand within the Aboriginal labour market, or in the general labour market. The list, therefore, constitutes a barrier to equitable participation by Aboriginals.

In summary, UI developmental mechanisms restrict Aboriginal people from accessing training and finding new avenues that will lead to effective re-integration into the labour market, thereby reducing Aboriginal unemployment levels.

7 Social Assistance Recipient Training

In the fall of 1985, the federal government and provincial and territorial governments launched the "Four Cornered Strategy". This Strategy permitted EIC to reallocate CJS funds specifically for Social Assistance Recipients (SARs). It also enabled the Canada Assistance Plan (CAP) to divert social assistance funds to employment/training programs, thus creating a federal/provincial employment enhancement effort of significant proportion. The rationale is to commit "passive" spending to "active" labour market programming. The provinces administer the CAP funds through their SAR programs while EIC administers its share through CJS. In 1989-90 EIC budgeted up to $325 million for SAR programming and the provinces up to $200 million.[51]

For Aboriginal people, the impact of the SAR training initiative is difficult to ascertain, as the provinces do not track Aboriginal clients.

Social assistance for Aboriginal people is a grim economic and social reality. For on-reserve populations, social assistance reached $365 million in 1988-89 - an increase of 29 per cent over two years. This was expected to increase by 14 per cent in 1989-90. Further, the rate of off-reserve social assistance has risen three times faster than on-reserve.[52] These figures do not account for the number of Aboriginal people who receive provincial social assistance in urban areas of Canada. Overall, Statistics Canada (1986) estimated that 33 per cent of Aboriginal people receive the major portion of their income from social assistance, compared to 18 per cent for all other Canadians.[53]

8 Canadian Aboriginal Economic Development Strategy (CAEDS)

The Canadian Aboriginal Economic Development Strategy (CAEDS) was announced by the Government of Canada in June 1989, replacing the Native Economic Development Program (NEDP) with some new structural and program objectives. CAEDS' objective is to provide long-term employment and business opportunities by giving Aboriginals the means to manage their own businesses, job training and skill development. CAEDS was backed by $873.7 million in new funding over five years and a commitment by three federal departments, Indian and Northern Affairs Canada (INAC), Industry Science and Technology Canada (ISTC), and Employment and Immigration (EIC), to work in partnership with Aboriginal people, the private sector and provincial governments.[54]

The $873.7 million was distributed to INAC ($473.7 million) and ISTC ($400 million) with EIC committing itself to maintaining current levels of Aboriginal participation in its programs for 1990-91.

EIC's involvement in CAEDS is through CJS, with a focus on Skill Development and Urban Employment. EIC has committed to a number of CAEDS related objectives: involving Aboriginal people in EIC's local planning strategy; setting participation rates of Aboriginal people in EIC programs and services; flexibility in programming; distribution of resources commensurate with the levels of Aboriginal unemployment; use of Aboriginal institutions to deliver EIC programs and services; and complementing local and provincial programs and services.

Aboriginal groups are questioning EIC's commitment to the Strategy's success. EIC has taken a marginal role in the Strategy's development and was not provided with new resources for its role. EIC plans to use CJS, with its established program fences, and depend on existing employment services which may present additionnal barriers.

The idea of three federal departments working together under CAEDS raises expectations among Aboriginal groups that EIC's role is more substantial than it really is and that EIC is an equal partner in the Strategy. However, EIC's position appears to be "business as usual". EIC could only play a complementary role to CAEDS initiatives.

Moreover, resources spent on Aboriginal people would be spent whether or not EIC was involved in CAEDS.

Complicating the situation is the urban Native strategy in which EIC has a lead role, and has communicated this to its regions. However, for a number of reasons, many regions are unwilling to redirect limited resources from reserves to urban areas. First, reserves already have organizational capacity for the development of projects, whereas urban Aboriginal communities are more diffused and less active, which makes needs identification more difficult. Second, consultation between EIC and Aboriginal people is often done with on-reserve Aboriginal people because they have organized, formal consultative structures - band councils and tribal councils. Third, on-reserve Aboriginal people believe directing EIC resources to urban areas is a legitimate goal, but should not occur at their expense. In addition, many EIC officials believe that CAEDS should not mean supporting new projects in urban, off-reserve areas at the expense of successful on-reserve projects.

Being primarily a human resource organization, EIC's cooperative role in CAEDS is further restricted, because CAEDS is primarily an economic development policy. This is unfortunate, because Aboriginal people expect EIC to be able to negotiate training and employment development initiatives as part of its partnership.

Overall, CAEDS has worked in certain EIC regions and has resulted in tripartite meetings with the other CAEDS partners. Time will tell whether this will be the extent of EIC's involvement. However, without an Aboriginal CAEDS budget, changes to its CJS programs, employment services and delivery mechanisms, it appears that EIC's role in CAEDS will remain an uncertain one.

9 Native Internship Program (NIP)

The Native Internship Program (NIP) is currently EIC's only Aboriginal-specific program. The program was first developed in 1976 through the use of INAC funding in Ontario and became a part of EIC's Summer Canada Program in 1977.

The objective of the NIP is to increase summer employment opportunities for Aboriginal secondary and post-secondary students, by providing them with relevant training and work experience and the opportunity to investigate future career possibilities within EIC and the Public Service of Canada.

EIC committed $2.3 million for the NIP in 1988–89 - unchanged for the past two years. Participation stands at 586, which is also unchanged for the past two years. Program funding decreased from $2.7 million in 1987, with the result that participant wages and benefits significantly decreased as well.[55]

Popular with EIC staff and Aboriginal students alike, NIP is an excellent opportunity for Aboriginal students to gain a summer job as well as learn about EIC and the public sector in general. It also enhances Aboriginal students' job skills and improves their chances of future labour market participation.

EIC staff benefit from NIP through daily contact with Aboriginal people, thus gaining a better appreciation of their culture and background. In addition, through the development of trained Aboriginal staff, EIC gains an opportunity to employ them permanently for positions in the future.

Given EIC's less than satisfying record of hiring Aboriginal people, NIP should be viewed as a positive recruitment mechanism. For Aboriginal students, NIP offers good summer job opportunities and the possibility of a permanent job with EIC or another federal department some time in the future.

10 Federal/Provincial Agreements on Training

An issue of great importance to Aboriginal groups is the Federal/Provincial/Territorial Agreement on training which deals with the direct purchase of training courses. This "institutional" training generally has resulted in the federal government purchasing almost all of its courses from public institutions - usually community colleges.

Courses are purchased on the basis of annual regional training plans, and include vocational, pre-vocational, employment, language, apprenticeship and occupational orientation training. EIC and the provinces negotiate a course cost, and EIC sets a budget for direct purchase that is reflected in the agreements.

The federal/provincial/territorial agreements impact on Aboriginal people in a number of areas. First, the inflexibility of the agreements makes it difficult for EIC to contract with Aboriginal training institutions for the delivery of appropriate courses to Aboriginal people. With a minimum of 90 per cent of the courses purchased through public institutions, Aboriginal training institutions, even with support of Aboriginal sponsors for training community members, are able to provide only a fraction of the courses purchased.

Despite safeguards, the agreements provide an uneven playing field to the provinces, which often reduces an institution's obligation to provide appropriate Aboriginal training programs. Many Aboriginal groups have long-standing complaints about the quality of training from the colleges. Since the training is purchased on their behalf by EIC, they can only protest as a third party to both.

Second, the agreements contain no equity provision governing Aboriginal apprenticeship training within public institutions, despite EIC's past efforts in this regard. Although this issue can be argued as being beyond the power of either the provinces or the federal government, the lack of an equity provision for apprenticeship training relieves the provinces of any pressure to promote this type of training for Aboriginals.

Third, the training covered by the agreements is still subject to CJS program criteria. Direct purchase access should be based on the needs of the trainee, as determined through counselling, and the viability of labour market attachment, both in the Aboriginal labour market and in the general one. Equity goals for Aboriginal people should be a major consideration, along with the severity of labour force underdevelopment. The "most in need" concept, questioned earlier, becomes a moot point, given the levels of Aboriginal employment in the overall Canadian labour market.

Fourth, direct purchase expenditures have been reduced by 39 per cent since 1985-86 without inflation factored in. This trend should continue - but with corresponding increases in other purchase-of-training options (indirect via coordinators and coordinating groups), to ensure that the amount of training available to Aboriginal people increases and becomes more relevant.

11 Consultation Mechanisms

One of the major concerns of Aboriginal groups regarding EIC is that policies and programs are established without their meaningful participation and consultation. In some cases, EIC does involve Aboriginal people where local labour market priorities are established with client groups and others. In addition, limited Aboriginal consultation occurs within the context of Local Advisory Councils, which provide advice to CEC management. Other possible avenues of participation are through Community Futures Committees where Aboriginal representation exists, and liaison with EIC regional Aboriginal Employment Co-ordinators.

In British Columbia, the B.C. Native Employment Strategy has developed an Aboriginal advisory board mechanism that provides local Aboriginal community groups with a range of decision-making responsibilities. B.C. is divided into 10 District Advisory Boards (DABs) based on geographic regions.

DABs set priorities for human resource development in consultation with EIC staff for the area. Priorities are determinated on the basis of the available resources from CJS. DABs decide which local projects will be funded by EIC, after proposals are reviewed by EIC staff to ensure they meet program criteria. DABs also set budgets for each program option and manage them co-operatively with EIC.

Each DAB sends one representative to the B.C. Native Employment Advisory Committee (NEAC) which meets quarterly with the Regional Director-General and senior staff to discuss policy and program issues that impact on Aboriginal people.

Despite the limitations outlined in the Skeena DAB 1988 Innovations Proposal, the B.C. Native Employment Strategy is an effective partnership between EIC and Aboriginal groups in B.C., providing consultative mechanisms which, although frustrating at times, ensure that EIC and Aboriginal groups work together to resolve labour market development problems in the region.

Co-ordinating groups provide another avenue for Aboriginal/EIC consultations, and some regions consult with regional Aboriginal groups, usually those who are on-reserve.

In Saskatchewan, the Federation of Saskatchewan Indian Nations (FSIN) has organized an interdepartmental federal/provincial consultation group to address issues of concern to treaty Indians of that province. The Regional Director-General of EIC is a member of this group.

Notwithstanding these regional initiatives, EIC lacks an overall consultation process for Aboriginal participation in policy development and program design. A national consultation process has been discussed, particularly in the B.C. region, as an extension of its Native Employment Strategy. Also, EIC has held several workshops to explore the applicability of the B.C. strategy to other regions.

Given the labour force conditions of Aboriginal people and their unique labour market, Aboriginal groups believe a consistent, community-based consultative process at the national, regional and local EIC levels would "educate" many EIC officials to the realities of the Aboriginal labour market. This would go a long way toward ensuring that Aboriginal labour market issues are on the EIC agenda when policy development and program changes are discussed at EIC. As a result, EIC/Aboriginal groups could form a mutually beneficial partnership that would address the need to use resources effectively and in a meaningful way.

There are many constraints on establishing a national consultation committee and a set of regional and local ones. One is EIC's will to recognize the need and to risk being involved in this manner with Aboriginal groups. Another lies within national, regional and local Aboriginal groups themselves. It would require them to set aside some differences and agree to work together at making changes.

In B.C., the development of the Native Employment Strategy required Aboriginal leaders on-reserve, off-reserve, Métis, status, non-status, rural and urban to look at the short- and long-term benefits of working together with EIC. It did not mean that leaders "sold out" the needs of their constituents by working together; rather, it focused on how the labour market needs of all Aboriginal people could be met in a more effective Aboriginal based manner.

EIC's hesitance in establishing a partnership with Aboriginal people should be lessened within its new decentralized organizational structure. **EIC will come to recognize that establishing a separate consultative process for Aboriginal people does not necessarily mean that every special group deserves similar treatment. By now it is well documented that the needs of Aboriginal people warrant unique approaches if changes are to occur.**

EIC should therefore pursue consultations with other stakeholders, including federal departments involved with Aboriginal people, appropriate provincial and municipal authorities, employers with federally legislated employees, Crown Corporations, federal contractors, chambers of commerce and boards of trade. The development of multi-level government and sectoral consultation at the local, regional or national levels would assist in obtaining the partnerships and cooperative actions needed in most Aboriginal communities. Representation of Aboriginal people in these consultative groups would ensure that community needs are brought to the table for discussion and possible cooperative actions.

CAEDS has initiated, to some extent, the development of cooperative committees involving EIC, INAC and ISTC at the national level and in most regions. There is no Aboriginal representation at this time on either the national or regional tripartite committees, nor have the provinces and relevant private sector groups been formally involved.

The Saskatchewan federal/provincial/FSIN committee is a possible model for future development, although it lacks a private sector involvement at this time.

The importance of developing interdepartmental consultation at the federal level, with involvement of the provinces, private sector and Aboriginal people, would ensure that new policies and programs would integrate with those of other departments. Further, the consultative group could provide significant input into how Aboriginal problems could be resolved effectively within the framework of Aboriginal communities.

Conclusion

Aboriginal Canadians face unique challenges and have a large stake in the federal government's labour market strategy. Resources directed at improving the labour market prospects of Aboriginal Canadians must be used effectively. It is also realistic to seek ways to obtain better results from this programming. The government has made it clear in its policy statement that Canada as a whole needs to get better results and to develop a "training ethic" if we are to stay competitive.

The major players, business and labour, have already been mobilized to take on new responsibilities in this regard.

While it is clear the Aboriginal people face many difficult challenges, there are significant opportunities for trained individuals.

These challenges and opportunities point to the need to invest more wisely in enhancing the employability of individuals who are marginalized in the labour market, using principles similar to those recommended by the Task Force on Social Assistance Recipients. The unique training needs that Aboriginal communities have as they take over new roles and responsibilities mean human resource planning and development have never been as critical. Like other major stakeholders - industrial sectors, business, labour - Aboriginal groups have been offered a challenge to treat human resource development as a major determinant of performance.

As the federal government reshapes its labour market strategy for the 1990s, it is important to use the opportunity to develop a fresh approach and a new **partnership** with the Aboriginal community.

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Background and Acknowledgements

The *Pathways to Success: Aboriginal Employment and Training Strategy* background and policy and implementation papers represent the work of Employment and Immigration Canada (EIC) and Aboriginal people through the Aboriginal Employment and Training Working Group (AETWG).

The AETWG was organized in November 1989 to address Aboriginal issues surrounding EIC's new Labour Force Development Strategy (LFDS) and consultations with labour market partners on the LFDS conducted by the Canadian Labour Market and Productivity Centre (CLMPC). In both the Labour Force Development Strategy, as articulated by the government's policy and background documents, *Success in the Works*, and the CLMPC's process, many Aboriginal people felt the unique labour market needs of Aboriginal Canadians were not being addressed.

The AETWG's mandate was to review EIC's policy, program and service relationship with Aboriginal people and to make specific recommendations for improving the effectiveness of this relationship. This examination was to occur through consultations with Aboriginal people in the context of the LFDS. The expected outcome was a new partnership between Aboriginal people and EIC leading to better labour market results.

The first meeting of the AETWG occurred in February 1990 with Aboriginal representatives from six national Aboriginal organizations (Assembly of First Nations, Métis National Council, Inuit Tapirisat of Canada, Native Women's Association, Native Council of Canada and the National Association of Friendship Centres) as well as Aboriginal training and employment experts from across Canada. EIC was represented on the AETWG by regional and national headquarters officials.

At the February 1990 meeting the Aboriginal members tabled a set of five principles that would form the basis of the new Aboriginal/EIC partnership. Those principles are outlined in the *Pathways to Success Policy and Implementation Paper* and have been endorsed by the six national Aboriginal organizations listed above and many provincial/territorial Aboriginal groups.

At the second AETWG meeting in June 1990, the Minister of Employment and Immigration, the Honourable Barbara McDougall, endorsed the principles on behalf of EIC and the Government of Canada.

Since the June 1990 meeting, regional EIC officials and Aboriginal groups from the various provinces/territories have established regional and local consultation processes to put into effect the five partnership principles. Concurrently, work at the national level continues to help regional/local discussions bring about a new labour force/market relationship between Aboriginal people and EIC.

The *Pathways to Success* background and policy and implementation papers, along with the five partnership principles, signals a new era in the way EIC and Aboriginal people plan and implement human resource development in Canada. It is also recognized that other federal departments, the provinces/territories and the private sector (business and labour), will have a role in these developments. As Minister McDougall indicated "the AETWG ... allows us all to get in step with each other and to be in touch with changes occurring in Aboriginal communities. This way we can create a process that will be more effective in addressing Aboriginal labour force and market needs".

The AETWG members listed below must be thanked for their hard work, commitment and patience in bringing about the *Pathways to Success : Aboriginal Employment and Training Strategy* process. Their efforts in developing a partnership between EIC and Aboriginal peoples will help achieve the goals outlined by Minister McDougall and Aboriginal leaders in Canada.

Aboriginal Members:

Chief Joe Miskokomon
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Associate Deputy Minister

Michèle S. Jean
Executive Director, Employment

Yves Poisson
Director General, Employment Policies

Once again, thanks to all of you for your historic work.

Howard Green, Co-ordinator, AETWG
Deborah Hyde, Policy Analyst, AETWG

Overview

The Partnership Principles endorsed by the Labour Force Development Strategy - Aboriginal Employment and Training Working Group (LFDS - AETWG) and concurred with by Aboriginal people and the Minister of Employment and Immigration Canada (EIC), provide the basis for a new working relationship between Aboriginal people and EIC.

In order to put these principles into effect, it is necessary to outline certain policy and operational considerations. As a result, it is expected that policy and operational decisions will be made that reflect EIC's mandate and the unique labour force and market needs of Aboriginal people. This will create certain implementation challenges for both partners in this emerging partnership. Meeting those challenges will require an atmosphere of trust, respect and good will from both sides.

Among the many implementation challenges facing the partners are factors related to regional and local flexibility, joint management processes, effective program and service delivery machinery, appropriate allocation mechanisms, and the specific needs of Aboriginal women. Decisions surrounding these issues and others should be negotiated in a manner that promotes achievable, positive outcomes. It is agreed that nothing contained in this document will in any way diminish the commitment by the partners to the special priority needs of Aboriginal women, youth and the disabled.

Suggested policy and operational approaches outlined in this paper are designed to address the challenges before the partners. It is assumed that the implementation process will be sensitive to the varying priorities and institutional capacities of Aboriginal communities in different parts of Canada. Nevertheless, it is expected that EIC officials and Aboriginal people will work together toward fulfilling the mandate of this partnership as articulated in the partnership principles preamble.

To this end, the *Pathways to Success* policy and implementation paper provides a golden opportunity for EIC and Aboriginal groups to develop a partnership that will benefit Aboriginal peoples while facilitating EIC's labour market adjustment mandate.

Partnership Principles

Preamble

In recognition of Employment and Immigration Canada's (EIC's) mandate to facilitate adjustments required for the effective functioning of the Canadian labour market, and in recognition of the benefits for all Aboriginal peoples, it is the objective of Aboriginal people and EIC to establish an effective partnership to invest in and develop a trained Aboriginal labour force for participation in unique Aboriginal labour markets and the broader Canadian labour market.

This partnership is based on the following five principles:

1 *Consultation Process and Local Control of Decision Making*

that this partnership be solidified through the establishment of national, regional and local consultation/management boards to ensure that the needs and priorities of the Aboriginal community are addressed and are reflected in the design, development and implementation of EIC policies that affect them;

2 *Delivery Mechanisms*

that employment and training programs and services be managed, operated, conducted and arranged through Aboriginal infrastructures;

3 *Funding Mechanisms and Institutional Development Capacity*

that a funding mechanism be developed which recognizes the planning and operational needs of Aboriginal delivery machinery, and develops a capacity as described above, reflecting the level of need in Aboriginal communities. Such a mechanism could be based on existing successful models;

4 *Employment Equity*

that EIC aggressively undertake proactive measures to improve recruitment, training and employment of Aboriginal people both internally and externally to EIC; and

5 Eligibility for Programs and Services

that, consistent with the principles enunciated above, the Aboriginal delivery machinery be given the discretion to determine a person's eligibility for programs and services, and that, more generally, there be a reliance on counselling for determining eligibility rather than strict eligibility criteria as in the past.

Principle 1: Consultation Process and Local Control of Decision Making

Rationale

EIC has suggested, in agreement with Aboriginal groups, that building an effective partnership requires developing mechanisms for the joint management of EIC programs and services for all Aboriginal peoples.[1] This principle is the cornerstone of any effective EIC/Aboriginal partnership because it commits both sides to a long-term collaborative management system.

Suggested Approach

The model proposed here, or some other model that may be negotiated or agreed upon by the partners, will be founded on Aboriginal local-level decision making. Further, the partners must consider a consistent approach to the development and implementation of management boards and apply the approach within the realities of specific regional and local EIC and Aboriginal circumstances.

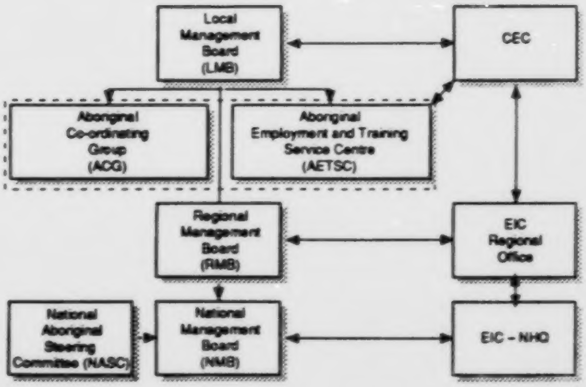
Some issues that should be resolved prior to implementation of joint management boards, particularly at local and regional levels, include:

- labour market/geographic characteristic;
- historical relationship between Aboriginal groups and EIC;
- relationship to EIC local, regional and national organizational structures;
- mandate of the boards;
- terms of reference for the boards at each level;
- organizational and representative structures/criteria;
- Aboriginal political dynamics;
- operation and management requirements; and
- Aboriginal community infrastructure.

The approach or model that will work best is one that reflects a set of consistent criteria and objectives on a national basis but provides for regional and local flexibility. This approach would ensure that joint management boards effectively address labour force and market priorities of local Aboriginal communities. The preferred approach is a "bottom-up" one driven by local Aboriginal communities and appropriate EIC structures.

The ability of management boards to address policy, program and service issues effectively may depend on a common model used throughout various regions. This will enable the national board to formulate a process that will be identified as the *"way business is done between EIC and Aboriginal people everywhere"* while taking into account local or regional variations.

The proposed model would parallel EIC's organizational structure to make a joint management process easier to accomplish. Depending on the EIC region, the Local Management Board (LMB) would parallel local Canada Employment Centre (CEC) and Canadian Jobs Strategy (CJS) operations centre management areas or aggregate CEC and CJS management areas. The determination of whether the LMB would fit into one or more CEC or CJS centres would depend on other factors such as Aboriginal population, distribution, and geography.


Local Management Board (LMB)
CEC
Aboriginal Co-ordinating Group (ACG)
Aboriginal Employment and Training Service Centre (AETSC)
Regional Management Board (RMB)
EIC Regional Office
National Aboriginal Steering Committee (NASC)
National Management Board (NMB)
EIC – NHQ

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[1] For the purpose of this paper Aboriginal includes "Native", "Inuit", "Indian", "Métis", "Status Indian", "Non-Status Indian", "Treaty Indian" and "First Nations"

Proposed terms of reference, including some considerations regarding boundaries, membership, roles and responsibilities for the management boards, as well as functional relationships with appropriate EIC structures, are listed in Appendix A.

Local Management Boards Mandate (LMBs)

LMBs would have the mandate to establish training and employment priorities for LMB areas, taking into consideration the application of program and service objectives for local Aboriginal labour force development and labour market needs within established criteria and resources.

LMBs would have decision-making responsibilities for the approval of local Aboriginal groups' training/employment/services proposals for the LMB area. These decision-making responsibilities might be given effect through local Aboriginal co-ordinating groups which, as a third party, co-ordinate the delivery of training, or through Aboriginal Employment and Training Service Centres (AETSCs), depending on local circumstances. LMBs might also monitor and evaluate local Aboriginal training and employment initiatives in conjunction with established Aboriginal co-ordinating groups, AETSCs or the CEC.

Regional Management Boards Mandate (RMBs)

This body would be responsible for supporting and adapting regional Aboriginal training and employment policy and its application to LMBs. It would provide a regional forum for discussion and possible adaption of policy that will have an impact on the effectiveness of programs and services for Aboriginal groups. It would help determine regional budget allocations to LMBs and might monitor and evaluate Aboriginal training and employment initiatives regionally. RMBs would also review these training and employment initiatives.

National Management Board Mandate (NMB)

This body would consider policy and program development as it may apply to Aboriginal people. It would help determine regional Aboriginal budgetary allocations and might monitor and evaluate Aboriginal program and training developments from a national perspective.

The NMB would also assess Aboriginal program and training initiatives with potential national implications.

National Aboriginal Steering Committee (NASC)

This body would provide advisory direction to the NMB prior to its national meetings.

It is expected that NASC would ensure national Aboriginal views on a number of issues were presented to the NMB. NASC might also be the Aboriginal representative body for meetings, if necessary, with EIC ministerial representatives.

Principle 2: Delivery Machinery*

Rationale

The expansion of existing services and programs and the development of new Aboriginal-controlled delivery of services and programs is important to ensure that training is more effective and responsive to local labour market needs of Aboriginal people. This reflects EIC's mandate to facilitate effective functioning of the labour market and addresses the unique needs of Aboriginal people.

Given the growing responsibilities and roles of CECs, Aboriginal organizations are well placed to assist them. The partnership constitutes an extension of local decision making with shared responsibility and accountability. The support of CECs and regional offices in establishing Aboriginal delivery of employment and training services and Aboriginal co-ordinating groups is critical. In areas where the capacity does not exist nor will for some time, and for clients who chose to use CEC services, the CEC will continue to play a crucial role in service delivery.

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* Aboriginal infrastructure refers to Aboriginal organizations and includes all Aboriginal-directed organizations (on- and off-reserve).

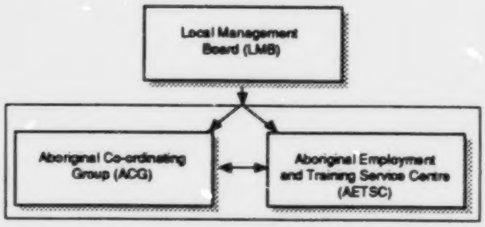
Suggested Approach

The approach illustrated here separates the functions of counselling and service delivery from the purchasing of training. This, however, represents only one approach. It is expected that appropriate approaches will be adopted by LMBs. The model must remain flexible to reflect local realities.

For example, LMBs in some areas may use CECs to deliver the full range of services or establish co-ordinating groups with CECs. Others may wish to combine the functions of co-ordinating groups with those of Aboriginal Employment and Training Service Centres (AETSCs) in a "one-stop shopping" method.

The number of AETSCs or co-ordinating groups in a given LMB area would be determined by the LMB. Some LMBs may share these structures. For example, the Atii co-ordinating group could service potential LMBs for Baffin, Keewatin and Kitikmeot.

Here, Aboriginal co-ordinating groups would purchase training on behalf of EIC through Local Management Boards. The service and counselling functions, along with referral, placement and follow-up could be separated or, where considered desirable, may be performed by the same organization.


Local Management Board (LMB)
Aboriginal Co-ordinating Group (ACG)
Aboriginal Employment and Training Service Centre (AETSC)

The co-ordinating group's structure and responsibility would remain similar to its existing form. AETSCs would resemble "enhanced" Outreach offices. Both organizations would maintain close links with each other, the LMB and CEC. Proposed terms of reference for these structures are listed in Appendix B.

Aboriginal Employment and Training Service Centre (AETSC) Mandate

The Aboriginal Employment and Training Service Centre would be responsible for delivering a range of employment and training services as approved by the LMB and for participating in LMB local planning. Training referrals would be directed through co-ordinating groups. [Where Aboriginal Outreach centres exist, it is expected that they will be absorbed as AETSCs where appropriate and with consent of the local Aboriginal community.]

Aboriginal Co-ordinating Groups Mandate

Aboriginal co-ordinating groups would provide a link between training purchased for individuals and related skill needs of employers in the given labour market under the direction of the LMB.

Principle 3: Funding Mechanisms and Institutional Development Capacity

Rationale

An Aboriginal notional allocation would reflect the need for labour market equality and would recognize the uniqueness of Aboriginal labour force needs. This would not prevent Aboriginal clients from participating in training and employment programs delivered outside the *Pathways to Success* strategy. However, the intent of the notional allocation is to give effect to the objectives outlined in the other four principles and to Aboriginal capacity development.

Suggested Approach/Aboriginal Notional Allocation Formula

The determination of an Aboriginal notional allocation should be within the terms of reference of the NMB and RMBs. It is anticipated that an enabling formula for distribution will occur with the concurrence of the NMB for the regions and at RMBs for LMBs.

The following factors should provide the basis of a fair and equitable method of determining an amount for a notional Aboriginal allocation and a process of distributing it to the regions:

- EIC programming and service areas;
- historic EIC target participation rates and expenditures on Aboriginal people;

- Aboriginal working-age population and levels of unemployment;
- percentage of Aboriginal people in the national population;
- regional Aboriginal population as a percentage of the total regional population; and
- additional new resources that may become available.

The same process would be used by RMBs for the local boards using LMB Aboriginal populations.

In determining the historic EIC Aboriginal participation rates and corresponding expenditures for programs and services to Aboriginal people, it would be necessary to consider the following program areas:

- Canadian Jobs Strategy (CJS) (including Challenge);
- Outreach;
- Social Assistance Recipients (SARs) (component 5);
- Unemployment Insurance (UI) Developmental uses (sec. 24/25/26);
- Native Internship Program (NIP);
- EIC nationally and regionally determined projects;
- Labour Market Services (i.e. human resource planning); and
- other programs and services deemed appropriate.

The breakdown of these participation rates and expenditures would be on a national and regional basis.

It is suggested that the national and corresponding regional Aboriginal allocation would be determined in the following manner:

1 Establishing a base Aboriginal notional allocation percentage and corresponding expenditures by determining historic Aboriginal participation and expenditures in EIC programs and services.

2 Appropriating a national Aboriginal notional allocation by taking the base percentage expenditure level from the national EIC programs and services budget.

3 Distributing 80 per cent of the national Aboriginal notional allocation to the regions based on their percentage of the national Aboriginal working-age population.

4 Administering three per cent of the national Aboriginal notional allocation by the National Management Board for Aboriginal programs of national priority.

5 Using two per cent of the national Aboriginal notional allocation for the joint management boards' operations and management expenses.

6 Adjusting regional notional allocations by 15 per cent based on:

  - historic Aboriginal expenditure levels in EIC programs and services;
  - levels of Aboriginal unemployment; and
  - levels of Aboriginal non-participation in the labour force.

It is anticipated in the 1991-1992 fiscal year or the first year of the *Pathways to Success* strategy, the Aboriginal notional allocation would be determined at the regional level for local management structures. In subsequent years, the Aboriginal notional allocation should be determined as outlined above.

This allocation formula would be subject to national fluctuations in EIC budgets, possible adjustments to the participation rate of Aboriginal people in EIC programs and services, changes in the Aboriginal working-age population, levels of unemployment and labour force participation rate. It is expected that annual reviews of budgetary considerations will be conducted by the National Management Board and their regional counterparts. However, a five-year funding formula might be proposed to facilitate planning.

Providing a notional Aboriginal allocation to regions for support to LMBs is the minimum that can be done to assist Aboriginal training and employment priorities. If warranted, CEC and CJS Operations Centres could provide additional resources to Aboriginal projects or services based on local labour market needs. This should also apply to CECs for providing services to individual Aboriginal clients.

Capacity Development

In order to put into practice the process outlined in Principles 1 and 2, some consideration must be given to administrative capacity and support.

RMBs may recommend operational budgets from the regional budget allocations. The LMB will determine the budget allocations for AETSCs and co-ordinating groups. Some operation and management (O&M) considerations are listed in Appendix C.

RMBs and the NMB should have administrative support to help co-ordinate efforts in regard to their expected policy development, monitoring and evaluation functions. NMB co-ordination of O&M issues should be conducted through an Aboriginal policy and program secretariat position, possibly through a senior policy advisor in the Designated Group component of Employment Equity at EIC National Headquarters. An EIC Native Employment Co-ordinator may act as a quasi-secretariat to the RMB or the position (with O&M support) might be transferred to RMBs or continue as an EIC person year with functional duties dedicated to RMBs. These considerations should be directed through the respective boards.

In addition, consideration should be given to developing the expertise of the joint management board members, AETSCs staff and co-ordinating group staff, and Aboriginal sponsors to strengthen the joint management process. Familiarization of Aboriginal joint management board members with the full range of EIC programs and services should be the responsibility of EIC. Training of AETSCs and co-ordinating group staff will be a primary consideration. Training in human resource planning and labour market development will complement the joint management process by supporting local Aboriginal groups in developing appropriate human resource plans and employment service plans and proposals.

Principle 4: Employment Equity

Rationale

The federal government recognizes that leadership and strong measures are needed to correct existing inequalities in the Canadian labour market. EIC, which administers the Employment Equity Act, should set an example by hiring Aboriginal people at all levels of its organization. It must do so to remain credible with federally legislated partners and the non-legislated private sector.

Increased representation of designated groups in the public service has a longer term effect of influencing policy decisions. For Aboriginal people in particular, the work experience obtained in government offers invaluable tools for those returning to assist their own communities with self-government and other initiatives.

The *Pathways* strategy should ensure that EIC establishes mechanisms for the recruitment, hiring and retention of Aboriginal employees, particularly Aboriginal women. These hiring plans should permeate all levels of the organization. EIC must be held accountable for reaching its target levels through the joint management boards process.

Suggested Approaches

The general labour market equity situation for Aboriginal people suggests a number of approaches are needed. Responsibility and accountability to Aboriginal communities is fundamental to any of them. As indicated previously, joint management boards will determine which delivery mechanisms will serve Aboriginal people best, based on local and possibly regional priorities.

These mechanisms must take into account: the availability and location of potential Aboriginal employees; needs of the Aboriginal labour market; willingness of employers to recruit and retain Aboriginal people; capacity of Aboriginal-directed labour market exchange services; and influence of existing or potential private sector placement services for Aboriginal people.

Budgetary considerations for these initiatives should be separate from the allocation formula described in Principle 3 as they are components of EIC's overall employment equity mandate.

1 Vehicles for Employment Equity Action

The most appropriate machinery for resolving general labour market employment equity problems are Aboriginal-controlled and directed agencies. These organizations may be better positioned to determine where trained, labour market ready, Aboriginal people are within the Aboriginal community and what type of training is taking place to prepare more Aboriginal people for the labour market.

These agencies could also apply labour market exchange services and help employers retain Aboriginal staff through mutual cross-cultural training activities.

2 *Review of Internal EIC Recruitment Practices*

The development of an internal employment equity strategy within an annual review of EIC's hiring should be considered by regional and national management boards. On an annual basis the boards would review yearly hiring and terminations and review overall recruitment practices, policies and special programs within EIC that are directed at encouraging Aboriginal recruitment.

It is also suggested that EIC, in co-operation with the Public Service Commission, review the testing (ELOS) process as a means of removing culturally discriminating barriers for Aboriginal peoples. Further, EIC might press for the establishment of an Aboriginal Advisory Board at Treasury Board to review Aboriginal public sector hiring targets.

3 *Appointments within EIC*

There are always vacancies - both term and indeterminate - which are being staffed. EIC recognizes that these vacancies can offer good potential to increase designated group representation in EIC.

One solution is to designate term and indeterminate positions at all levels within its organization as "Aboriginal preferred". Exclusion approval orders may be sought from the Public Service Commission permitting a department to limit appointments under certain programs to designated group members to achieve general equity goals.

Another option is to design a special program or to designate positions under the Career Assignment Service or Management Orientation Program as "Aboriginal preferred", allowing Aboriginal employees to compete for more responsible positions within the public service.

4 *Training Positions Within EIC*

To attain the national employment equity representation goal, EIC operates the EIC Designated Group Retention and Development Program (DGRDP) - formerly the Aboriginal Retention and Development Program (ARDP). This program has recently been expanded to include other equity groups in addition to Aboriginal trainees and the resources should be adjusted to reflect this change. The Native Internship Program (NIP) could also be used to a much greater extent for ensuring more internal placement and should be offered on a year-round basis to Aboriginal youth.

NIP could also be used for external placements, particularly with Aboriginal governments. This could be brought about through amendments to existing NIP terms and conditions or through changes in the Challenge program.

Other measures, such as internal hiring campaigns, which is done for co-operative education students, might be broadened to make use of Aboriginal training institutions.

5 *Annual Aboriginal Employment Equity Conference*

An annual Aboriginal Employment Equity Conference would enable key equity players to exchange information on various relevant initiatives and to develop new ways to assist Aboriginal people gain employment with a variety of employers. A yearly conference on Aboriginal employment equity would also help agencies involved in training and/or placing Aboriginal people meet with employers involved in recruiting and hiring potential Aboriginal employees. Co-ordination of this conference should be done by the NMB.

6 *Employer Based Employment Equity*

Equity legislation alone has not sufficiently motivated federally legislated employers, other levels of government and the non-legislated private sector enough to recruit and hire Aboriginal people.

One resolution might be to develop an employer based Aboriginal human resource development program offering incentives to federally legislated employers and federal contractors to establish an Aboriginal human resource plan and implementation machinery. Employers who are not federally legislated might have access to incentives for recruiting, hiring and retaining Aboriginal staff. Resources for this program would need to be established by EIC as part of its mix of employer based training and employment options. Other possible employer based equity incentives could focus on providing employers with tax breaks for hiring Aboriginal people, and have EIC include Aboriginal hiring levels in all megaprojects and related activities involving federal resources.

Principle 5: Eligibility for Programs and Services

Rationale

If counsellor discretion in making training and employment decisions with clients is to be expanded, then training and employment program criteria must be flexible with respect to eligibility and entitlement.

As members of an EIC equity group, Aboriginal people have unique needs which, to some extent, have been recognized through special measures. The proposed joint management process and possible delivery mechanisms offer great potential in addressing Aboriginal individual and group needs by focusing on the client. However, changing the delivery machinery without providing greater program flexibility on eligibility and entitlement to those labour market programs and services will continue to present serious problems for Aboriginal clients and groups.

Suggested Approaches:

1 Eligibility and Entitlement Rules

Eligibility for EIC programs should be based on Aboriginal individuals meeting the labour market spirit and intent objectives of programs and services with individual assessment to determine entitlement. Entitlement of Aboriginal community based projects would be made by the appropriate management board in conjunction with its labour market priorities, budget and the objectives of EIC programs and services.

This would ensure flexibility and appropriate decision making relative to local labour market needs.

2 Individual Aboriginal Client Assessment

When relying more heavily on discretionary assessment rather than fixed program/service criteria, the unique needs of the individual client must be taken into account. Cultural and community factors should be considered along with appropriate selection and referral criteria. Some of these factors are listed in Appendix D.

Further training of CEC counsellors with regard to Aboriginal community and cultural factors is seen as a positive step and may be most effectively administered by Aboriginal people knowledgeable in employment and training issues. This should complement local and regional Aboriginal delivery machinery and would provide more consistent service to Aboriginal clients who use CECs.

3 Aboriginal Sponsors Assessment

The joint management process will be responsible for assessing and approving proposals. This is expected to occur through a variety of flexible approaches, particularly at the LMB level. Assessment and implementation procedures for the Boards and Aboriginal agencies will be required. Factors to be considered for a proposed assessment procedure are listed in Appendix E.

Depending on local and regional approaches to management boards, CEC staff will probably review each proposal, to ensure it meets program criteria, and then present the board with a recommendation for approval or rejection based on established assessment procedures. Project implementation and monitoring would be done by appropriate delivery staff in accordance with procedures established by the boards.

4 Removing the Barriers to EIC Programs

A number of recommended approaches to resolving current EIC barriers for Aboriginal people, so they may access EIC programs more effectively for labour force and market development, are listed in Appendix F. These approaches have been considered in terms of short, medium and long term implementation possibilities.

It is important to note that program access to literacy and up-grading for Aboriginal people remains critical. The current barriers to such programming must be removed as soon as possible to ensure Aboriginal access to this prerequisite training for skills development.

Appendix A: Joint Management Machinery – Terms of Reference

Local Management Boards (LMBs)

Composition:

LMBs would be composed of Aboriginal representatives from district Aboriginal organizations, bands, tribal councils and related Aboriginal-controlled groups along with local EIC officials from CEC and CJS centres area management offices appointed for two years.

Resolution on who sits on LMB and how LMB boundaries are drawn must take into account EIC regional and local management structures and the organizational nature of the Aboriginal community.

In determining the geographic locations and boundaries of LMBs within a province or territory, a number of factors should be considered:

- Aboriginal tribal affiliations;
- location and distribution of Aboriginal community organizations;
- urban/reserve mix;
- Aboriginal population demographics;
- Canadian Jobs Strategy Operation Centres, sub-regional CEC management offices or other appropriate EIC district CEC structures; and
- geographic distances.

EIC officials in a particular region along with Aboriginal leaders should establish representation criteria for LMBs along the following lines:

- Aboriginal ancestry;
- knowledge of EIC programs, policies and services;
- interest in Aboriginal labour market and human resource development issues; and
- background in education, training, economic development and related areas.

A joint letter from the Regional Director General/Executive Director and an appropriate Aboriginal regional leader should be sent, calling for nominations for representatives (and an alternative) for the LMB area. The letter should also outline the length of representation on LMBs (two years), the proposed number of meetings per year (six), operation and management issues related to meetings, the LMB mandate, terms of reference, and that representatives should reflect the interests of Aboriginal training and employment in their LMBs, not *just their parent organization and group interests.*

The size of LMBs would vary depending on the number of Aboriginal organizations and population. It is likely that each LMB would have between eight to twelve representatives, not including EIC officials. There must be an equitable representation of males and females on the National, Regional and Local Boards. This would, where appropriate, reflect the on/off-reserve mix at the LMB level.

Regional Management Boards (RMBs)

Composition:

RMBs would be composed of one Aboriginal representative from each of the Local Management Boards, along with senior EIC regional management officials and the Aboriginal Employment Co-ordinator. Regional boards would exist in all EIC regions with separate regional boards in the Northwest and Yukon Territories.

National Management Board (NMB)

Composition:

The NMB would comprise Aboriginal representatives from each of the Regional Management Boards along with senior EIC national management officials and the national Aboriginal senior advisor from Employment Equity. In addition, a representative from the Native Women's Association of Canada would be a permanent member of the NMB to ensure Aboriginal women's issues were addressed by the NMB.

National Aboriginal Steering Committee (NASC)

Composition:

The NASC would include one representative from the following national Aboriginal organizations:

- Assembly of First Nations
- Native Council of Canada
- Inuit Tapirisat of Canada
- Métis National Council
- National Association of Friendship Centres
- Native Women's Association of Canada

Roles and responsibilities

LMB

- manage the training and employment service functions related to Aboriginal people while respecting EIC's management responsibilities and accountability to Parliament
- establish local Aboriginal labour force and market development priorities
- determine annual training and service contribution agreements, where required, with EIC based on local priorities and allocation levels from the RMB
- approve local training, employment services, labour market operations and related human resource development plans and projects from Aboriginal sponsors, groups or organizations based on established LMB's training and employment priorities, EIC program criteria and policies
- ensure local Aboriginal organizations are aware of the LMB's priorities, policies, operations and related activities
- monitor and evaluate the effectiveness of Aboriginal labour force/market initiatives within the LMB's geographic area
- meet approximately six times a year
- elect one representative for the Regional Management Board
- hire required staff if necessary, to give support to the effective operation of the LMB
- establishment of appropriate conflict resolution mechanisms in co-operation with RMBs

CEC [1]

- participate as a partner in LMB and maintain ongoing liaison with LMB as part of the CEC core service to develop a service strategy identifying clients, partners and stakeholders, and EIC relations with them
- development of an annual local planning strategy including recommendations from joint management boards and other partners
- administrative functions
- legislated financial accountability consistent with increased Ministerial accountability and authority (IMAA)
- support to LMB for collection and dissemination of labour market information
- facilitation of specific technical support to the LMB
- facilitation of project-based proposals to the LMB ensuring proposals meet established EIC criteria

Roles and responsibilities

RMB

- propose regional policy implementation regarding Aboriginal training and employment programs and services
- assist in determining budgetary allocations for the LMBs
- assist in determining support for innovative Aboriginal labour force development and market projects that have regional implications
- monitor and evaluate the LMB, CEC, Aboriginal co-ordinating group and AETSC operational effectiveness in meeting local Aboriginal training and employment needs
- review and evaluate labour market trends in the regional economy that may impact on regional policies for Aboriginal people and communities
- review and evaluate Aboriginal labour market trends that may impact on training and employment policies in the region

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[1] The functions listed here relate most appropriately to the functional relationship with the joint management board. Roles and responsibilities normally performed but not listed would continue to be performed.

- recommend as required specific task forces and working groups on critical issues that may affect Aboriginal training, employment and human resource development needs
- recommend the establishment of and/or participate in federal interdepartmental, intergovernmental and/or private sector advisory boards on issues of direct or potential importance to Aboriginal employment and training
- meet four times a year
- nominate two representatives as members of the National Management Board
- hire required staff, if necessary, to give support to the effective operation of RMBs

EIC Regional Office [2]

- participate as a partner in RMB and maintain ongoing liaison
- provide appropriate regional labour market and budgetary information to RMB
- provide support for review and evaluation
- provide person-year support through the Aboriginal Employment Co-ordinator
- administrative functions
- financial accountability

Roles and Responsibilities

NMB

- propose national policy regarding Aboriginal training and employment programs and services
- monitor and evaluate policies that affect Aboriginal people, groups and communities
- monitor and evaluate the effectiveness of the joint management process on Aboriginal human resource and labour market development in order to ensure quality of service to Aboriginal people
- propose adjustments to existing policies, programs and services in order to make them more effective for Aboriginal people
- review and evaluate labour market trends in the national economy that may affect national policies for Aboriginal people and communities
- review and evaluate Aboriginal labour market trends that may affect national training and employment policies
- determine support to innovative Aboriginal labour force development and market projects that have national implications
- establish as required specific task forces, working groups and research projects to address critical issues that may impact on Aboriginal training, employment and human resource development needs
- establish and/or participate in federal interdepartmental, intergovernmental, and/or private sector advisory boards on issues of direct or potential importance to Aboriginal employment and training
- hire required staff to give support to the effective operation of the NMB

EIC – NHQ [3]

- include recommendations from the NMB in EIC's corporate planning and priority determination
- operational planning and control functions in partnership with the NMB
- provide labour market information and analysis
- administrative support
- financial responsibilities
- set budget allocation levels and performance targets in conjunction with the NMB
- audit
- evaluation support for Aboriginal programs
- participate as a partner in the NMB
- staff support to the NMB through the Designated Group Directorate
- organizational support for the employment equity conference and other NMB initiatives as required

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[2] The functions listed here relate most appropriately to the functional relationship with the joint management board. Roles and responsibilities normally performed but not listed would continue to be performed.

[3] The functions listed here relate most appropriately to the functional relationship with the joint management board. Roles and responsibilities normally performed but not listed would continue to be performed.

Appendix B: Delivery Machinery – Terms of Reference

Aboriginal Employment and Training Service Centre (AETSC)

The AETSC may vary in size and scope depending on local conditions as determined by the LMB's human resource development plans. The AETSC would be monitored by LMBs and would be responsible for delivering a menu of services such as those listed below.

Aboriginal Co-ordinating Groups

Co-ordinating groups must be defined as incorporated non-profit organizations (which may include on- or off-reserve incorporations) and cannot be directly linked to training institutions.

Like AETSCs, Aboriginal co-ordinating groups could also be directed by the LMB.

Roles and responsibilities

AETSCs [4]

- identify and select clientele and identify placements and local training needs through contact with regional and local Aboriginal and non-Aboriginal employers and community-based organizations
- evaluate training needs of the specific labour market in the course of planning activities in conjunction with the LMB
- provide, as required, sectoral adjustment services by ensuring the local Aboriginal sector is treated as a valid component of the overall labour market
- provide client and group services including counselling, assessment, diagnostic services, goal setting, case planning and follow-up, utilizing counselling tools, methods and materials such as job-finding clubs etc.
- provide referral, placement and follow-up of clients to training and employment programs purchased through a co-ordinating group and provide post-placement counselling services to clients
- administering projects approved by the DMBs through co-ordinating groups
- responsible for Contribution Agreements, grants and the administration of Aboriginal project sponsors
- collect and disseminate labour market information including information on job openings and job seekers:
  - provide information on the general labour market to local employers and clients;
  - perform research and support functions such as compiling inventories of employers and clients, developing a resource centre, performing research on Aboriginal and general labour market needs;
  - promote and market program and services options to relevant labour market partners and client groups
- promote and deliver employment equity initiatives such as identifying and providing placement service for federally legislated employers and corporations contractors, referring and placing Aboriginal people with employers, subject to equity legislation
- provide impact rates for LMB monitoring and evaluation purposes
- assist LMB(s) where appropriate on Aboriginal labour market issues, human resource plans and local training and employment priorities
- report as required to the LMB regarding services performed according to a standardized set of criteria established for the AETSC
- could be contracted by the LMB where appropriate or by EIC, to perform some or all of the above functions

Aboriginal Co-ordinating Groups

- where an AETSC does not exist Aboriginal co-ordinating groups might take on some or all of the functions listed under AETSCs

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[4] These are some functions that may be negotiated based on LMB recommendations.

- purchase training in accordance with the skill needs identified to address both the employer needs to ensure post-training employment, and worker needs (as indicated by the AETSC where existing) that reflect the LMB established local human resource development plans and labour market needs of Aboriginal communities;
- in addition to purchasing vocational training and preparation for vocational training, Aboriginal co-ordinating groups' options may include preparation for employment, language training and occupational orientation training; and
- evaluate the effectiveness of the training purchased regarding EIC requirements with respect to documentation of referrals and evaluation of the training.

CECs

- delivery of full range of UI services and controls for UI claimants
- delivery of full or supplementary range of labour market adjustment programming and services for eligible individuals where AETSCs or Aboriginal co-ordinating groups do not exist and for individual Aboriginal clients who choose to use CEC service
- maintain liaison with the AETSCs and co-ordinating groups

Appendix C: Operation and Management (O&M) Considerations

The Operation and Management costs associated with the strategy may include:

- LMBs/RMBs/NMB meeting expenses;
- communications;
- printing; and
- administrative staff with overhead expenses.

LMBs will need technical and administrative organizational support such as assistance in agenda preparation, background documents regarding projects and proposals and post meeting follow-up. In addition, travel support, meeting arrangements and other services should be a part of an overall plan needed by LMBs so they can operate effectively and efficiently. Joint management boards should consider ways and means of limiting O&M expenses so more resources can be used for programs and services.

Appendix D: Client-Based Assessment Procedures

The following considerations within EIC's established selection and referral process may provide Aboriginal clients with more effective assessment results in which a referral can or can not be made. These considerations should be judged as tendencies within Aboriginal groups and not ones that apply to all Aboriginal people when they are being interviewed for an employment or training assessment.

Cultural Factors/Processes

- lack of eye contact;
- manner of dress;
- informality;
- non-verbal communications;
- more group oriented than individual;
- building trust in a one-to-one situation;
- close social distance;
- reserved less willing to talk assertively about past/present accomplishments;
- unwilling to predict future achievements;
- verbal, public praise is frowned upon;
- unwilling to ask for assistance;
- unlikely to converse fully until trust is built; and
- willing to let the person in authority talk to the point of making decision for the individual.

Community Factors/Processes

- relationship to Aboriginal community environment;
- location and type of formal educational experiences;
- childhood up-bringing;
- position vis-à-vis community, economic and human resource development plans;
- previous work experience in the Aboriginal community;
- resolution approaches to past, current, social and legal problems;
- documentation materials required;
- type of career research available for comparable positions in the Aboriginal community or with Aboriginal employers;
- occupational data collection forms and use of the CCDO; and
- training/employment location and methods preferred.

Appendix E: Community-Based Assessment Procedures

Factors that should be considered by the management boards in establishing operating procedures for the assessment and approval of Aboriginal labour force and market development proposals include:

- priorities set by boards;
- management boards' budgets;
- potential impact of the project on labour force outcomes to the Aboriginal community or trainees;
- sources of other funding for the project;
- projects integration into community human and economic development plans;
- sponsor's administrative and financial track record;
- community support;
- potential duplication of existing community projects; and
- meeting the intent of EIC programs.

Appendix F Removal of Barriers to EIC Programs

Short-term Implementation

The *Pathways* paper recommendations dealing with possible revisions to EIC programs which may be addressed in the short term are summarized as follows:

1 use of Industrial Adjustment Services (IAS) for Aboriginal human resource planning;

2 exclusionary eligibility criteria be eliminated;

3 removal of cost-sharing program criteria for Aboriginal sponsors;

5 inclusion of Aboriginal post-secondary training institutions for co-op education projects;

6 establishment of Aboriginal training trust fund option projects under Skill Investment;

9 information to Aboriginal groups on all past Innovations projects related to Aboriginal labour force and market development;

10 Innovations program to incorporate an Aboriginal developmental component;

15 expand the number of Aboriginal Literacy Corps projects;

18 funding for training be extended beyond 52 weeks;

25 EIC employment equity objectives reflect percentage of labour force and degree of unemployment;

29 year-round NIP;

32–33 increase income supports and dependent care allowances in areas with high living and child care costs;

36 allow one-person Sec. 25 projects instead of three-person projects;

40–42 that EIC/INAC arrange an on-reserve SAR agreement;

45–48 that EIC be signatories with ISTC and INAC in federal/provincial CAEDS MOUs where it will enhance Aboriginal training/employment;

49 NIP be year round and available to Aboriginal youth as well as students;

50–51 NIP be expanded to assist in the training of Aboriginal people for employment with government and with Aboriginal organizations; and

52–55 Increase indirect purchase options using Aboriginal co-ordinating groups.

Medium Term Implementation

The following *Pathways* recommendations may require a longer-term view to implementation:

7 Community Futures (CF) expansion with appropriate resources by establishing target numbers for new Aboriginal-only CFs;

8 pilot a metropolitan Aboriginal CF project;

11 literacy training as a means of increasing the number of Aboriginal people with prerequisites for skills training;

13 expand the training period to three years to ensure Aboriginal people can mix literacy and upgrading with skills training;

27 private sector/equity employers' assistance program;

30 provide sectoral adjustment support to Aboriginal groups and organizations;

31 yearly Aboriginal employment equity conference;

34 negotiate with SAR authorities to ensure trainees do not receive assistance and support cuts which act as a disincentive for EIC training;

37 use Sec. 26 training for literacy and upgrading; and

38 changes in skill shortage designation be applied to section 26 training course approvals;

39 EIC establish a systematic approach to capturing Aboriginal data for policy and program development; and

43–44 EIC/Health and Welfare establish under the federal/provincial SAR agreement target Aboriginal off-reserve SAR projects delivered through or arranged by Aboriginal community organizations.

Implementation Contingent on Machinery

Recommendations emanating from the Pathways document that should be dealt with through the National Management Board include:

12 types of literacy programs that ensure Aboriginal culture and learning styles are incorporated;

14 National Aboriginal Literacy Advisory Committee with EIC, other federal agencies, provincial training institutions and Aboriginal representation; and

54 national and regional Apprenticeship Advisory Committee to include EIC/provincial/Aboriginal/private sector/union representatives to develop strategies for increasing the number of Aboriginal apprentices.

Other recommendations requiring the establishments of the management boards:

4 program criteria be reviewed to ensure barriers are not presented;

16–17 development of an Aboriginal budget;

19–24 AETSC establishment, with infrastructure capacity, absorption of Outreaches where desired, and possibly merging with co-ordinating group structures;

26 EIC to use community-based centres to identify, refer and place Aboriginal people with employers; and

35 set rates for Aboriginal participation under the developmental uses of UI.

Overall, it is expected that the NMB and its counterpart boards in the regions and at the local district level will address the training and employment priorities of Aboriginal people and groups. Ultimately, this will give the partnership meaning and effectiveness in changing the human resource and labour market situation for Aboriginal people and communities.

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Government Organization Act, 1979

Environmental Assessment and Review Process Guidelines Order

P.C. 1984-2132 21 June, 1984

Her Excellency, the Governor General in Council, on the recommendation of the Minister of the Environment, pursuant to subsection 6(2) of the Government Organization Act, 1979*, is pleased hereby to approve the annexed Guidelines respecting the implementation of the federal policy on environmental assessment and review, made by the Minister of the Environment on June 11, 1984.

Guidelines Respecting The Implementation Of The Federal Policy On Environmental Assessment And Review

Short Title

1. These Guidelines may be cited as the *Environmental Assessment and Review Process Guidelines Order*.

Interpretation

2. In these Guidelines,

"Environmental Impact Statement" means a documented assessment of the environmental consequences of any proposal expected to have significant environmental consequences that is prepared or procured by the proponent in accordance with guidelines established by a Panel;

"department" means, subject to sections 7 and 8,

(a) any department, board or agency of the Government of Canada, and

(b) any corporation listed in Schedule D to the *Financial Administration Act* and any regulatory body;

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*S.C. 1978-79, c. 13 s. 14

"initiating department" means any department that is, on behalf of the Government of Canada, the decision making authority for a proposal;

"Minister" means the Minister of the Environment;

"Office" means the Federal Environmental Assessment and Review Office that is responsible directly to the Minister for the administration of the Process;

"Panel" means an Environmental Assessment Panel that conducts the public review of a proposal pursuant to section 21;

"Process" means the Environmental Assessment and Review Process administered by the Office;

"proponent" means the organization or the initiating department intending to undertake a proposal;

"proposal" includes any initiative, undertaking or activity for which the Government of Canada has a decision making responsibility.

Scope

3. The Process shall be a self assessment process under which the initiating department shall, as early in the planning process as possible and before irrevocable decisions are taken, ensure that the environmental implications of all proposals for which it is the decision making authority are fully considered and where the implications are significant, refer the proposal to the Minister for public review by a Panel.

4. (1) An initiating department shall include in its consideration of a proposal pursuant to section 3

    (a) the potential environmental effects of the proposal and the social effects directly related to those environmental effects, including any effects that are external to Canadian territory; and

    (b) the concerns of the public regarding the proposal and its potential environmental effects.

   (2) Subject to the approval of the Minister and the Minister of the initiating department, consideration of a proposal may include such matters as the general socio-economic effects of the proposal and the technology assessment of and need for the proposal.

5. (1) Where a proposal is subject to environmental regulation, independently of the Process, duplication in terms of public reviews is to be avoided.

(2) For the purpose of avoiding the duplication referred to in subsection (1), the initiating department shall use a public review under the Process as a planning tool at the earliest stages of development of the proposal rather than as a regulatory mechanism and make the results of the public review available for use in any regulatory deliberations respecting the proposal.

Application

6. These Guidelines shall apply to any proposal

(a) that is to be undertaken directly by an initiating department;

(b) that may have an environmental effect on an area of federal responsibility;

(c) for which the Government of Canada makes a financial commitment; or

(d) that is located on lands, including the offshore, that are administered by the Government of Canada.

7. Where the decision making authority for a proposal is a corporation listed in Schedule D to the *Financial Administration Act*, the Process shall apply to that proposal only if

(a) it is the corporate policy of that corporation to apply the Process; and

(b) the application of the Process to that proposal is within the legislative authority of that corporation.

8. Where a board or an agency of the Government of Canada or a regulatory body has a regulatory function in respect of a proposal, these Guidelines shall apply to that board, agency or body only if there is no legal impediment to or duplication resulting from the application of these Guidelines.

9. (1) Where, in respect of a proposal, there are two or more initiating departments, the initiating departments shall determine which of the responsibilities, duties and functions of an initiating department under these Guidelines shall apply to each of them.

(2) Where the initiating departments cannot under subsection (1) agree to a determination, the Office shall act as an arbitrator in the making of the determination.

Initial Assessment

Initiating Department

10. (1) Every initiating department shall ensure that each proposal for which it is the decision making authority shall be subject to an environmental screening or initial assessment to determine whether, and the extent to which, there may be any potentially adverse environmental effects from the proposal.

(2) Any decisions to be made as a result of the environmental screening or initial assessment referred to in subsection (1) shall be made by the initiating department and not delegated to any other body.

11. For the purposes of the environmental screening and initial assessment referred to in subsection 10(1), the initiating department shall develop, in cooperation with the Office,

(a) a list identifying the types of proposals that would not produce any adverse environmental effects and that would, as a result, be automatically excluded from the Process; and

(b) a list identifying the types of proposals that would produce significant adverse environmental effects and that would automatically be referred to the Minister for public review by a Panel.

12. Every initiating department shall screen or assess each proposal for which it is the decision making authority to determine if

(a) the proposal is of a type identified by the list described under paragraph 11(a), in which case the proposal may automatically proceed;

(b) the proposal is of a type identified by the list described under paragraph 11(b), in which case the proposal shall be referred to the Minister for public review by a Panel;

(c) the potentially adverse environmental effects that may be caused by the proposal are insignificant or mitigable with known technology, in which case the proposal may proceed or proceed with the mitigation, as the case may be;

(d) the potentially adverse environmental effects that may be caused by the proposal are unknown, in which case the proposal shall either require further study and subsequent rescreening or reassessment or be referred to the Minister for public review by a Panel;

(e) the potentially adverse environmental effects that may be caused by the proposal are significant, as determined in accordance with the criteria developed by the Office in cooperation with the initiating department, in which case the proposal shall be referred to the Minister for public review by a Panel; or

(f) the potentially adverse environmental effects that may be caused by the proposal are unacceptable, in which case the proposal shall either be modified and subsequently rescreened or reassessed or be abandoned.

13 Notwithstanding the determination concerning a proposal made pursuant to section 12, if public concern about the proposal is such that a public review is desirable, the initiating department shall refer the proposal to the Minister for public review by a Panel.

14. Where, in any case, the initiating department determines that mitigation or compensation measures could prevent any of the potentially adverse environmental effects of a proposal from becoming significant, the initiating department shall ensure that such measures are implemented.

15. The initiating department shall ensure

(a) after a determination concerning a proposal has been made pursuant to section 12 or a referral concerning the proposal has been made pursuant to section 13, and

(b) before any mitigation or compensation measures are implemented pursuant to section 13,

that the public have access to the information on and the opportunity to respond to the proposal in accordance with the spirit and principles of the *Access to Information Act*.

16. The initiating department, in consultation with the Office, shall establish written procedures to be followed in order to make a determination under section 12 and shall provide the Office on a regular basis, with information, on its implementation of the Process with respect to the proposals for which it is the decision making authority.

17. The initiating department shall

(a) ensure that federal-provincial, territorial and international agreements reflect the principles of the Process with respect to proposals for which it is the decision making authority; and,

(b) include in its program forecasts and annual estimates of the resources necessary to carry out the Process with respect to proposals.

Federal Environmental Assessment Review Office

18. It is the responsibility of the Office to

    (a) provide initiating departments with procedural guidelines for the screening of proposals and to provide general assistance for the development and installation of implementation procedures;

    (b) assist the initiating department in the provision of information on and the solicitation of public response to proposals early enough in the planning stage that irrevocable decisions will not be taken before public opinion is heard;

    (c) publish in summary form the public information provided to the Office by an initiating department on proposals for which it is the decision making authority and for which a determination under section 12 has been made; and

    (d) inform the Minister on a periodic basis, in a report to be made public, on the implementation of the Process by initiating departments.

Other Departments

19. It is the role of every department that has specialist knowledge or responsibilities relevant to a proposal to

    (a) provide to the initiating department any available data, information or advice that the initiating department may request concerning

        (i) any regulatory requirements related to the project, and

        (ii) the environmental effects and the directly related social impact of those effects; and

    (b) as appropriate, advocate the protection of the interests for which it is responsible.

Public Review

20. Where a determination concerning a proposal is made pursuant to paragraph 12(b), (d) or (e) or section 13, the initiating department shall refer the proposal to the Minister for public review.

21. The public review of a proposal under section 20 shall be conducted by an Environmental Assessment Panel, the members of which shall be appointed by the Minister.

22. The members of a Panel shall

    (a) be unbiased and free of any potential conflict of interest relative to the proposal under review;

    (b) be free of any political influence; and

    (c) have special knowledge and experience relevant to the anticipated technical, environmental and social effects of the proposal under review.

23. (1) The Executive Chairman of the Office or his delegate shall be the Chairman of a Panel unless, in the opinion of the Minister, the circumstances of a particular review deem it inappropriate.

    (2) The Executive Chairman of the Office shall appoint the Executive Secretary of the Panel.

24. The Office shall provide a Panel with

    (a) any support staff that it may require; and

    (b) any logistical and administrative services that it may require for its public review and for its public information program conducted pursuant to subsection 28(1).

25. (1) The public review of a proposal shall include

        (a) an examination of the environmental effects of the proposal; and

        (b) an examination of the directly related social impact of those effects.

    (2) The examinations under paragraphs (1)(a) and (b) shall be conducted by the same Panel.

    (3) Subject to the approval of the Minister and the Minister of the initiating department, the scope of the public review of a proposal may include such matters as the general socio-economic effects of the proposal and the technology assessment of and need for the proposal.

26. (1) The Minister, after consultation with the Minister responsible for the initiating department, shall issue the terms of reference outlining the scope of the public review to be undertaken by a Panel.

    (2) The Office, in consultation with the initiating department, shall draft the terms of reference referred to in subsection (1).

(3) The terms of reference for a Panel shall be made available to the public.

27. (1) All hearings of a Panel shall be public hearings conducted in a non-judicial and informal but structured manner.

(2) A Panel shall establish, in accordance with procedural guidelines issued by the Office, its own detailed operating procedures.

(3) Witnesses before a Panel may be questioned but may not be sworn or subpoenaed.

(4) A Panel may question the relevancy and content of any information submitted to it.

28. (1) Every Panel shall conduct a public information program to advise the public of its review and to ensure that the public has access to all relevant information that any member of the public may request.

(2) The public information program referred to in subsection (1) shall be in addition to any other public information program that may be conducted by a department or a proponent that is specifically relevant to the activities of that department or proponent.

29. (1) All information that is submitted to a Panel shall become public information.

(2) A Panel shall allow the public access to an sufficient time to examine and comment on the information submitted to it prior to a public hearing.

30. (1) Guidelines for the preparation of an Environmental Impact Statement may be issued by a Panel to the proponent in a public review.

(2) For the purpose of developing the guidelines referred to in subsection (1), a Panel may consult the public and any department.

31. (1) At the end of its review, a Panel shall

(a) prepare a report containing its conclusions and recommendations for decisions by the appropriate Ministers; and

(b) transmit the report referred to in paragraph (a) to the Minister and the Minister responsible for the initiating department.

(2) The Minister and the Minister responsible for the initiating department shall make the report available to the public.

32. Any of the requirements or procedures set out in sections 21 to 31 may be varied by the Office in the case of any federal-provincial review or any review that involves special circumstances.

Initiating Department

33. (1) It is the responsibility of the initiating department in a public review to

(a) ensure that the responsibilities of the proponent in the review are fulfilled;

(b) ensure that its senior officials and staff make presentations and respond to any questions for which it has responsibility;

(c) subject to subsection (2), decide, in cooperation with any other department, agency or board of the Government of Canada to whom the recommendations of a Panel are directed, the extent to which the recommendations should become a requirement of the Government of Canada prior to authorizing the commencement of a proposal;

(d) subject to subsection (2), ensure, in cooperation with other bodies concerned with the proposal, that any decisions made by the appropriate Ministers as a result of the conclusions and recommendations reached by a Panel from the public review of a proposal are incorporated into the design, construction and operation of that proposal and that suitable implementation, inspection and environmental monitoring programs are established; and

(e) subject to subsection (2), determine in what manner the decisions made under paragraph (c) and those referred to in paragraph (d) are to be made public.

(2) Where the initiating department has a regulatory function in respect of the proposal under review, the responsibilities set out in paragraphs (1)(c), (d) and (e) shall be amended to account for and not to interfere with the decision making responsibilities of that initiating department.

Proponent

34. It is the responsibility of the proponent in a public review to

(a) prepare, in accordance with any guidelines established by the Panel pursuant to subsection 30(1), the Environmental Impact Statement and supporting documents;

(b) submit to a Panel, in such languages as are determined appropriate by the Panel, sufficient copies of the Statement and documents referred to in paragraph (a) as are required for the purposes of public review;

(c) implement a public information program to explain the proposal under review and its potential environmental effects;

(d) in the event that the Panel identifies deficiencies in the Statement referred to in paragraph (a), provide sufficient copies as are required for the purposes of the public review, such additional information as may be requested by the Panel;

(e) ensure that senior officials and expert staff are present at public hearings of the Panel and that they make the appropriate presentations and respond to any questions put to them; and

(f) ensure that appropriate post-assessment monitoring, surveillance and reporting, as required by the initiating department, are carried out.

The Federal Environment Assessment Review Office

35. It is the responsibility of the Office in a public review

(a) to draft for consideration by the Minister, in consultation with the initiating department, the terms of reference referred to in subsection 26(1);

(b) to identify persons as potential members of a Panel and to make contractual arrangements for their services;

(c) where appropriate, to negotiate provincial or territorial participation in a public review, federal participation in a provincial review, or any other participation in any other cooperative mechanisms; and

(d) provide written procedures, and any other advice and assistance on procedural and policy matters, to ensure that there is procedural and policy consistency between the various public reviews by Panels.

Other Departments

36. In a public review, it is the role of every department that has specialist knowledge or responsibilities relevant to a proposal to

(a) provide to the Panel and any other participants in the public review any available data, information or advice that is requested from them;

(b) provide experts at public hearings of the Panel to make presentations or to respond to questions; and

(c) where appropriate, advocate the protection of the interests for which they have responsibility.

Explanatory Note

(This note is not part of the Regulation, but is intended only for information purposes.)

These Guidelines set out the requirements and procedures of the federal Environmental Assessment and Review Process and the responsibilities of the participants therein.

Indian and Northern Affairs Canada
Affaires indiennes et du Nord Canada

Introduction to Real Property Taxation on Reserve

Indian Taxation Advisory Board

Canada

Introduction to Real Property Taxation on Reserve

Indian Taxation
Advisory Board

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Introduction

This booklet has been produced by the Indian Taxation Advisory Board to provide a basic introduction to property taxation under the *Indian Act* primarily for the benefit of first nations/bands who are contemplating the use of their taxation powers.

In Part I, the essential elements of property taxation are outlined, including its basic purposes, property assessment, the calculation of rates, different types of taxation and the important aspect of appeals.

The new provisions of the *Indian Act* included in Bill C-115 (June 1988) as well as the nature and the requirements of taxation by-laws are explained.

In Part II, the new Indian Taxation Advisory Board is introduced and its role and mandate are described. The process for by-law approval is laid out, with particular attention to the benefit of interaction between first nations/bands and the Board prior to the passage of a by-law. A schedule for the by-law approval process is provided.

As a result of the 1988 amendments to the *Indian Act*, first nation/band taxation powers have been significantly extended and strengthened. In particular, for the first time since 1884 these powers clearly and explicitly apply to non-Indian interests, including leaseholds on reserves and designated (formerly conditionally surrendered) lands.

Many first nations/bands are now examining the prospect of using these new powers. This booklet should assist Councils in their deliberations. Not all first nations/bands may need or want to adopt taxation by-laws. The potential tax base may not be significant, or the cost and trouble involved may not justify the returns. Negotiated agreements with potential taxpayers or service charges may be more effective.

First nations/bands who are interested should find that this booklet gives an idea of what establishing a new taxation regime would involve.

It is quite apparent that establishing a tax system is a major undertaking. For this reason, the government has created the Indian Taxation Advisory Board and the Indian Taxation Secretariat. The Board is a novel approach to administration under the *Indian Act*. It is the first Indian-controlled administrative board to be involved in the exercise of decision-making powers under the *Act*. Its task is to facilitate the use of taxation by-laws by: providing advice and assistance to first nations/bands; mediating as needed with affected parties including other governments; and making formal recommendations to the Minister on the approval of by-laws giving them force of law.

This booklet was written primarily to inform first nation/band councils about real property taxation under Section 83 of the *Indian Act*. It is worth noting, however, that the by-law powers under Section 83 are not themselves explicitly restricted to "real property taxation" but encompass "land, or interests in land, in the reserve, or rights to occupy, possess or use land in the reserve". Real property taxation, in the sense of *ad valorem* taxation, is based on an assessment of the value of land and buildings or other improvements attached to the land. Because each taxpayer is taxed an amount based on the value of his/her land based holdings, this form of taxation makes a determined effort to meet the principle of fairness. But there are other methods of calculating and assessing taxation of land or land use which can also be fair and which could also be authorized under Section 83. In such alternative methods, the assessment upon which the tax is based may not necessarily relate to the value of the real property but might involve other measurable units. This booklet touches on such alternative approaches only in passing. Furthermore, councils have a broad power under paragraph 83(1)(f) for "the raising of money from band members to support band projects", and this is not dealt with in this booklet.

Readers are reminded that this publication is only a general guide to understanding *Indian Act* property taxation. For greater certainty, the *Indian Act*, and any corresponding regulations or officially adopted guidelines, as well as legal counsel, should be consulted.

Anyone requiring further information on first nation/band property taxation is invited to contact the Indian Taxation Advisory Board. Comments and suggestions for improving this booklet are always welcomed.

The address of the Indian Taxation Advisory Board is:

Indian Taxation Advisory Board
Les Terrasses de la Chaudière
10 Wellington Street
Ottawa, Ontario
K1A 0H4

Part One

A. The Effect of Bill C-115

The power of first nation/band councils to levy taxes on real property has existed for more than a century. In 1884, Parliament passed the *Indian Advancement Act*. Sir John A. MacDonald, the Prime Minister, explained to Parliament that the *Act* was intended to develop Indian interest in, and responsibility for, self-government.[1] This legislation gave councils the power, among others, to levy taxes on the real property of Indians on the reserve.[2]

Indian Act power to tax real property interests on reserves, therefore, is not new. However, first nations/bands did not begin making by-laws to raise money by assessment and taxation of interests in reserve land until the 1970s. And, since then, only a handful have exercised their property taxation powers. Furthermore, a truly effective legal basis for these powers has been clearly delineated only since June 1988, by ***An Act to Amend the Indian Act (designated lands)*** initiated by Chief Clarence Jules and the Council of the Kamloops Indian Band.

The "Kamloops" amendment evolved as a solution to a problem that developed when the Kamloops Indian Band set up an industrial park on its conditionally surrendered land. Through a "surrender", rights to land in the reserve are conferred on Her Majesty (i.e. the federal government) to enable the government to permit possession of it, by sale or lease, to non-Indians. In developing the industrial park, the Kamloops Band was required to "conditionally surrender" that portion of its reserve so that the land could be leased to non-Indians. The Band paid the costs of developing the land

and providing basic services such as roads, water and sanitation to park tenants, even though the Province of British Columbia, exercising its provincial taxing powers, was imposing property taxes at the same time on the non-Indians tenants of the park.

Generally, property taxes are levied to finance the types of basic services the Kamloops Band was providing here. However, since the Province did not have to provide such services on the conditionally surrendered land, the Band had to impose substantial service charges on park residents to finance the services. Needless to say, the added financial burden on park residents to pay both provincial property taxes and Band services charges made it more difficult for the Band to compete with other industrial parks for tenants.

After many years, the Kamloops Band concluded in the early 1980s that it should assert its own power to levy taxes. In attempting to do so, however, the inadequacies of the *Indian Act* became apparent, specifically respecting the apparently limited reach of council by-law powers with regard to conditionally surrendered lands. In 1984, a court decision distinguished between reserve lands and conditionally surrendered lands *(Leonard v. R. in Right of British Columbia* (1984), 52 B.C.L.R. 389, C.A.). It seemed then possible that the pre-amendment version of Section 83 of the Act – which provide band taxation powers – applied to "reserve" land exclusive of conditionally surrendered land.

In addition, other powers of the band council related to local taxation might also have excluded conditionally surrendered land. For example, subsection 81(1) paragraphs (f)(g) and (h) of the Act give councils the authority to make by-laws pertaining to the construction and maintenance of roads, bridges and other local works, the zoning of land, and the regulation of building, repair and construction. However, all of these powers might only have been exercised on the "reserve".

The Kamloops Band therefore concluded that to be able to exercise its property taxing authority and to zone and regulate the land it had developed for the industrial park, the definition of "reserve" in the *Indian Act* would have to be broadened to include conditionally surrendered lands. Consequently, Chief Clarence (Manny) Jules of the Kamloops Band wrote to all chiefs seeking support for an *Indian Act* amendment, and subsequently approached the federal government in the spring of 1985 with a specific proposal. The government reacted to the Band's suggestion with strong support. The Band's proposal ultimately became *An Act to Amend the Indian Act (designated lands)*, and after three years of extensive consultation and development, Parliament passed the amendment into law. The main effects of the amendment with respect to taxation are discussed under three headings below.

1. Clarifying the Legal Status of Conditionally Surrendered Land

In the past, courts faced with the question of whether conditionally surrendered land fell within the federal or provincial scope of constitutional powers decided that land conditionally surrendered for lease remained "land reserved for Indians" and, thus, fell under federal jurisdiction as set out in subsection 91(24) of the *Constitution Act 1867*. As a consequence, provincial laws or by-laws of municipalities which were land-related proved to be *ultra vires* on reserves or conditionally surrendered land, with the exception of provincial or municipal property taxation by-laws pertaining to non-Indian property interests.[3]

Yet, by-law making powers conferred by the *Indian Act*, before the Kamloops amendment, applied explicitly only to the "reserve"; and it was doubtful they would extend to "conditionally surrendered lands". The definition of "reserve" and references to reserves in the *Act* were presumed not to include "surrendered lands" because it was a separately defined term in the *Act*.

Evidently, a legislative gap existed. Given the definitions of "reserve" and "surrendered lands" contained in the *Indian Act* and the jurisdictional boundaries placed on band councils by the *Act*, and provincial governments by the *Constitution*, no body except Parliament could make laws to control the planning and development of conditionally surrendered lands before Bill C-115 was enacted.

The new definition of "reserve" incorporated in the *Indian Act* though C-115 bridges this gap. The old definition of "reserve" is retained but "reserve" now includes "designated lands" except in certain enumerated sections.

"Designated lands" is a new term coined to distinguish 'non-absolutely' from 'absolutely' surrendered lands. The distinction was necessary to avoid confusing these two types of surrender. When a surrender is "less than absolute" (i.e., there is *no intended sale* of the land) then the "reserve" status of the land is not given up.

It is now clearly indicated in the Act that land set aside for leasing remains within the definition of "reserve". Such land, therefore, remains subject to council by-laws and federal regulatory jurisdiction.

2. Extending the Reach of Taxation By-Law Powers

The pre-amendment wording of subsection 83(1)(a) conferred the power on councils to make money by-laws related to the "assessment and taxation of *interests in land in the reserve of persons lawfully in possession thereof*". This language possibly may have been interpreted as referring only to Indian persons in possession of land within the Indian land tenure system, and not to non-Indian interests. Under the amended wording of Section 83, "land, or interests in land . . . including rights to occupy, possess or use" reserve land (including designated land) is subject to band taxation. Thus, for the first time, councils have clear and explicit powers to tax non-Indian interests in reserve lands.

Furthermore, the requirement was removed that first nations/bands be declared by the Governor-in-Council to have reached "an advanced stage of development" before making by-laws under Section 83. This provision was paternalistic and clearly offensive to Indian people. Moreover, it served no useful purpose since "advanced stage" was not defined in the *Act*. All first nations/bands can now exercise powers under Section 83.

Accompanying the newly extended taxing powers are new powers to enforce the payment of taxes and to collect interest on overdue taxes. As in the previous version of Section 83, any expenditure of money that has been raised using these new taxation powers must be authorized under a council by-law.

Measures, to ensure taxation powers are exercised with fairness, are also now incorporated in Section 83. Appeal procedures for assessments made under the authority of a taxation by-law must be included in the same by-law. This requirement is particularly important in that non-Indian leaseholders of Indian land will be unable to vote in first nation/band elections. Therefore, more than usual, they will rely on non-political avenues, like independent appeal mechanisms, to protect their interests.

Finally, new provisions in Section 83 deal with the regulation of taxation by-law making powers and the Minister's role in by-law approval. The Governor-in-Council has the power to make regulations respecting by-law making powers. This power permits basic standards to be developed, over time, for making and approving taxation by-laws under Section 83. Regulations can ensure consistency and help streamline the process. To develop regulations, the government will rely on advice from the Indian Taxation Advisory Board.

The Minister is responsible for reviewing taxation by-laws and approving them, in whole or in part. The Minister has discretion to approve or not approve such by-laws; however, in making this decision, the Minister will take into account advice from the Indian Taxation Advisory Board. The Board and the by-law approval process are described in Part Two below.

3. The Section 87 Property Tax Exemption

Section 87 of the *Indian Act*, which exempts the interest of an Indian or a band in reserve or surrendered lands from taxation, was not altered by Bill C-115. Section 87 remains subject to Section 83.

This means, in effect, that councils may choose to tax Indian interests in land on the reserve. Such interests could make up a substantial portion of the tax base and if, councils did opt to tax these interests in addition to non-Indian interests, their by-laws may be less likely to appear discriminatory or inequitable.

Councils may wish to seek the advice of the Board, independent tax experts and legal counsel on this potentially controversial matter.

B. Real Property Taxation

1. The Purpose of Real Property Taxation

Property taxes are a major source of revenue for local governments. In fact, their single most important source of revenue is normally real property taxation, including special property-based taxes such as business taxes. "These taxes have accounted for 35–40 percent of local government revenues since the early 1970s. Before that, they had provided up to half of municipal revenues".[4]

Other sources of local government revenue usually include licences and permit fees, receipts from fines and penalties, investment income, grants and transfer payments. In most cases, property taxes in Canada are imposed to cover the costs of local government that are not met from other revenue sources or transfers from federal and provincial governments.

Property taxes are the main source of funding for the provision of local services, such as roads, water, sewage, sanitation, snow removal, fire and police protection, building and plans inspection. As a result, property taxes commonly are perceived as taxes paid for the benefit of using local government services. These taxes represent "a way of proportioning the net costs of local government among all taxpayers on the basis of wealth as measured by their assessed property value".[5]

Property taxes have always been considered a stable revenue base and fair if they are based on accurate assessments of the real value of property.

2. The Use of Real Property Taxation on Reserves

In the case of first nation/band councils, many of the costs associated with providing services on the reserve are covered by federal program fund transfers and contributions. However, federal funds do not cover all such costs. For example, they do not provide for the servicing costs associated with developing Indian land for lease to non-Indians. To cover non-federally funded costs, first nations/bands need to develop other sources of revenue. Councils now have the option available to finance the provision of local services by taxing real property within their jurisdictions.

Over the years, many bands have funded certain local services through service charges. An advantage of property taxation over service charges is that, besides covering costs related to services that are directly delivered, such as garbage collection and water, property taxes can also cover the general costs of local administration, such as planning, zoning, regulating, inspecting and licensing. Taxes can also be used more effectively to cover costs of building, upgrading physical infrastructure, and for other purposes of common benefit.

For a property tax system to be viable it must be cost effective. In other words, the cost of setting up and running the system must be well-absorbed by the revenue which the system generates. Administering a property tax system – making assessments, providing appeal mechanisms, collecting taxes, enforcing payments – can be expensive. When councils contemplate introducing property taxation, the revenue they anticipate must cover not only the cost of local services but also the costs of setting up and running their property taxation system. Cooperative arrangements with existing property tax systems can help to keep costs down. Bands may also wish to explore alternative approaches to tax assessment apart from property valuation, which may be fair while also being simpler to administer. Therefore, before councils begin to exercise their taxation by-law making powers, they will have to satisfy themselves that instituting a band property taxation system will be cost effective.

3. The Basic Elements of a Property Tax

The revenue that can be generated from property taxation depends directly on the two main components of a property tax: the tax base and the tax rate. In an "ad valorem" system, the tax base is the assessed value of the real property upon which the tax is levied. Land and buildings are always included in a property tax base. Whether machinery and equipment affixed to real property is included may depend upon how the definition of taxable property is expressed in the governing legislation, in this case a by-law.

Rates of taxation are applied to the assessed value of a taxpayer's property to arrive at the quantum of tax owed. The manner in which rates are calculated and applied is explained below.

3.1 Determining Property Tax Rates

The method normally used to calculate property tax rates differs from approaches used to set other tax rates. The primary objective and basis for property taxation by local governments is the maintenance of a balanced budget. Accordingly, the governing principle is that any shortfall between expenditures and other revenue in a given year must be covered by taxation revenue raised for that same year.

To meet the goal of spending only what it has, a local government must set a suitable tax rate. First, it estimates the amount of tax revenue it requires to cover expenditures for the next fiscal year after subtracting all other sources of revenue. Then, the total tax revenue required is divided by the total assessed value of taxable property in the tax area. The resulting figure is multiplied by 1,000 and is called the mill rate. The mill rate, simply put, is the amount of tax payable for each dollar of assessed value expressed to the third decimal place.

Translated into an equation, the mill rate calculation is as follows:

$$\frac{\textbf{Total tax revenue required}}{\textbf{Total taxable assessment}} \times \textbf{1,000} = \textbf{Mill rate}$$

Individual property taxes owing are arrived at by multiplying the assessed value of the taxpayer's real property by the mill rate. Expressed as an equation, the calculation reads as follows:

Assessed value x Mill rate = Tax owed

For example, on a property with an assessed value of $5,000.00, when the mill rate is 12 mills (i.e. $0.012 or 1.2 cents tax for each dollar of assessed value), the taxed owed is $60 ($5,000 x 0.012).

In some jurisdictions, tax rates are not determined using the mill rate formula. Instead, the tax rate is levied as a percentage of the assessed property value. The percentage is set out by statute and can vary for different types of real property. For example, rural and forest lands could be taxed at a rate of one per cent of their assessed value and farmlands at a rate of one-half per cent of their assessed value.

Councils electing to institute a property taxation system will have to decide what method they wish to employ to determine the property tax rates in their jurisdiction. In so doing, they may find it useful to study the methods used in neighbouring jurisdictions and decide whether these approaches can be adopted.

Councils will also have to decide whether they wish to use a uniform rate for every type of property or a multiple rate that varies depending on the category of property assessed. A multiple rate would permit prescribed classes of property, such as residential, industrial and farmland, to be taxed at different rates. For example, the industrial rate could be higher than the residential rate, based on the theory that industry can afford a greater tax burden than an individual taxpayer. It is generally considered good practice to limit the different rate categories to a small number.

In making decisions on setting tax rates, councils may wish to consult the Board and independent tax experts for advice.

3.2 Assessing Property Values

Assessment of property values is the heart of all property taxation systems. Without sound and reliable assessment procedures, a property taxation system is unlikely to be fair. Property tax is a tax on real value, and assessment determines what that real property value is.

So, what is assessment? Assessment is the process whereby the local tax base, made up of real property and interests therein, is appraised for the purposes of local taxation. A leading Canadian tax expert has defined property assessment as follows: "It is the official act of discovering, listing and valuing property by appointed assessors or appraisers. The result of an assessment determines which properties will provide the base for local tax levies and the share of taxation that each property owner will bear".[6]

The biggest problem facing local governments taxing real property is obtaining accurate assessments. To avoid uneven or unfair assessments, the assessment system used by a taxing government must be detailed and comprehensive, be applied uniformly, and be open and able to stand up to public scrutiny. In otherwords, "the purpose of an assessment process must be to provide an equitable means of valuing property, so that the resulting property taxes may be levied and distributed as fairly or evenly as possible".[7]

In referring to provincial/municipal property tax systems, some experts have proposed that the following criteria be adhered to in order to set up an equitable assessment system:

(a) real property must be assessed whether taxable or not [i.e., whether or not exempted from taxation];
(b) real property must be assessed at current market value;
(c) assessments should be made by trained, experienced personnel working for a central agency which has direct and complete responsibility for all assessment within a province;
(d) the assessment function must be organized in such a way that assessors become familiar with local real estate markets; and
(e) property owners must be given ready access to pertinent assessment information and appeal bodies.[8]

It is also a general principle that all properties should be reassessed at regular intervals, preferably less than every five years.

Councils involved in developing a property assessment mechanisms may find the above criteria useful as guidelines for establishing equitable systems.

Councils may also find it useful to compare the assessment procedures employed in various provinces or American states, before establishing their own processes. The system for assessment of real property varies from jurisdiction to jurisdiction.

Councils may find it most cost effective to "buy" a tax assessment service from surrounding provincial or municipal systems. Or it may be possible to work out collaborative arrangements with these existing systems, for example, providing for training of Indian assessors, while using the basic approach of the existing assessment system.

Local governments in every province assess property at its "actual", "real", "fair" or "market" value. These terms all convey the same meaning: the amount that real estate might be expected to be sold for in the open market by a willing seller to a willing buyer, if it were sold at the date of assessment. However, the market value system is difficult to apply to unusual properties such as large factories or public utilities. Special assessment procedures have been developed for these situations.

Despite this uniform starting point, variations in the total taxable property will occur in different assessment areas depending on what specific types of property qualify for tax exemption under each system. Certain properties are exempted under almost all property taxation systems. They include property owned and occupied by: federal, provincial or local governments; schools, colleges and universities; churches and cemeteries; public hospitals; charitable organizations; and agricultural societies. It would be consistent with this approach, for example, for first nations/bands to also exempt property that belonged to the first nation/band itself, or is held by members in common.

Differences in total taxable assessments also arise as a result of the following factors: varying statutory definitions of what constitutes "real property", differences in the time periods between assessments, and adherence to differing systems of valuation in each jurisdiction.

4. Variations of Property-based Taxation

4.1 Local Improvement Taxes

Property tax systems also differ across Canada according to the special property-based taxes that local governments impose in addition to their general property taxation systems. For example, all provinces permit various forms of special assessments to be imposed by local governments. These assessments cover charges related to the costs of specific local improvements such as sidewalks and street lighting. Special improvement costs are usually recovered by dividing the total costs proportionately among individual properties, based on the frontage of the property benefiting from the improvement.

4.2 Business Taxes

Another special, property-based local tax is the business tax. Business taxes are not levied in all provinces, but where they are they constitute the second largest source of tax revenue for local governments.[9]

Business taxes are levied on the occupier of property rather than on the owner. Therefore, taxes are related to the use or occupation of the property for business purposes. Also, they are normally a personal tax, meaning that every occupier assessed for business taxes is personally liable for the payment of the tax and the assessed tax does not constitute a charge upon the land occupied or used for the business.

The property base upon which business values are assessed varies from province to province, but generally the business value assessment is derived either from a percentage of the assessed value of the property occupied by the business or from a percentage of the gross annual rental value of the business property. A tax rate is then applied to the assessed business value to arrive at the amount of business tax owed by the occupant. In Ontario, for example, the business tax rate used is the same rate that is used to calculate commercial property taxation. Described in terms of an equation, the business tax calculation reads as follows:

Assessed business value x Business tax rate
= Business tax owed

Section 83 of the *Indian Act* provides band councils with the authority to make taxation by-laws related to reserve land or interests in reserve land, including rights to *occupy*, possess or *use* land in the reserve. This broad wording suggests the potential exists for bands to make by-laws providing for business assessments and business taxes.

C. By-Laws Generally

A by-law is a law made for specific local purposes by authorized representatives of a local government and it takes effect within the jurisdiction of that government. Therefore, a by-law is a form of legislation.

The power to enact legislation can be delegated by the Parliament of Canada, or a Provincial Legislature, by enacting a law which assigns part of its law-making powers to another authority.[10]

In the federal sphere, Parliament has delegated part of its law-making powers under Section 91(24) of the *Constitution Act 1867* to band councils by enacting Sections 81, 83 and 85.1 of the *Indian Act* which provide councils with the authority to make specific types of by-laws. Section 81 lists over 20 purposes for which councils can make by-laws and Section 83 authorizes councils to make money by-laws for local purposes.

A first nation/band council by-law is a law that applies on the reserve. It is just as much a law as any law passed by the federal or provincial governments. All persons to whom the by-law applies, whether they are first nation/band members or not, and whether they support it or not, are bound by that law.

By choosing to exercise the authority to make by-laws, a first nation/band council automatically assumes the responsibilities associated with law-making. Therefore, a council is responsible for identifying the contents of a by-law, having the by-law drafted, getting it passed, making any necessary amendments, seeing to its enforcement and, if challenged, defending it before the courts.

D. Taxation By-Laws

As a result of the Bill C-115, councils clearly now are able to use their Section 83 by-law making powers to establish effective property taxation systems on reserves. Though the systems which bands set up will vary, their objectives are likely to be quite similar. These will include:

(a) Providing the first nation/band with a legislative framework for taxing and developing its land as part of an overall goal of achieving local autonomy, economic self-reliance and self-government.

(b) Encouraging the development of reserve lands by providing occupiers of Indian lands with a legally-based system for contributing to local servicing costs; and ensuring such a system is fair, affordable, consistently applied, accountable and appealable to an impartial authority.

(c) Providing the first nation/band with an effective means for developing new, flexible and stable sources for funding the general costs of servicing, developing and managing reserve lands.

(d) Facilitating joint planning and cost-sharing arrangements between the first nation/band and surrounding local jurisdictions (both municipal and provincial/territorial).

The key to meeting taxation objectives will be well-conceived and well-formulated taxation by-laws.

All aspects of a property taxation system will have to be incorporated in these taxation by-laws, including the basic elements of any property taxation system: assessment, appeal, collection and enforcement provisions. If councils decide to handle these areas through cooperative arrangements with other jurisdictions, they will have to reflect such arrangements in their by-laws.

Councils that passed taxation by-laws prior to 1988 borrowed a great deal from the example of existing provincial laws. Provincial laws continue to provide a good starting point for first nations/bands faced with the job of creating their own property taxation systems. However, the legislative position of councils under the *Indian Act* is substantially different from the provincial/municipal model. In addition, with this in mind, a guide to by-law development will be made available by the Indian Taxation Advisory Board.

Naturally, whatever prototypes are examined, they will have to be modified by each council to suit its own particular needs and circumstances. For instance, the various categories of property that a council decides to exempt from taxation, thus excluding such property from the tax base, may have a significant impact on the total revenue the council can generate by property taxation.

The job of making a by-law is not one to be taken lightly since the quality of a taxation by-law ultimately will affect the success of the band's property taxation system. The Indian Taxation Advisory Board has been given the mandate to assist councils in making comprehensive and effective taxation by-laws (see Part Two). In this context, the following remarks may be useful.

1. Drafting: Observing Limits and Requirements

Since the power to make money by-laws is delegated to councils via Section 83 of the *Indian Act*, councils must stay within the limits of the *Act*, express or implied, when exercising their by-law making powers. If they do not, their by-law making activity will be "*ultra vires*", that is, beyond their legal power or authority. If a taxation by-law, for example, attempted to tax absolutely surrendered land, the by-law would be *ultra vires*.

When drafting by-laws, councils must respect any specific requirements contained in the *Indian Act*. For example, subsection 83(3) of the *Act* expressly requires a taxation by-law to provide an appeal procedure in respect of assessments made under the authority of the by-law. Subsection 83(1) requires the Minister's approval of all taxation by-laws before they can come into force. Without the inclusion of a reasonable appeal procedure in a by-law, the Minister could not approve it.

Assessment provisions are an example of provisions that are "implied", that is, are not expressly stated, by the *Act*. Inclusion of implied provisions in the by-law is as important and necessary as the express provisions. Assessment is at the heart of any property taxation system. Without specific and detailed assessment provisions, a property taxation by-law would be unworkable.

Besides observing the express or implied parameters of the *Indian Act*, a taxation by-law must be drawn up in good faith, for the general good. It must not be drafted to be used against specific individuals, or to provide for private gain.

The meaning of a by-law must be clear and unambiguous. The courts generally will refuse to enforce a by-law that contains unclear provisions. A by-law ruled unenforceable or invalid by the courts will have no legal effect. The courts have the power to decide on the legality of a by-law, if it is challenged. The fact that the Minister approved the by-law does not guarantee that the courts will find the by-law legally binding.

If the validity of a by-law provision is challenged in the courts because it does not comply with the express or implied limits of the *Indian Act*, the courts may turn to case law of a similar nature to help determine whether to strike down the entire by-law or only the problematic provision.

Experiences in the municipal by-law field indicate that the courts will invalidate those parts of a by-law of any municipality for which there is no clear (express or implied) authority in a provincial statute. Furthermore, if those parts of the by-law which are found to be invalid by the courts are so integral to the by-law that they cannot be severed from the remaining valid parts, then the entire by-law may be invalidated.

In summary, unless each important part of a band taxation by-law is clearly authorized by the *Indian Act*, the council that drafted the by-law will risk having the entire by-law struck down by the courts.

Subsection 83(5) of the *Indian Act* gives the Governor-in-Council the power to make regulations concerning the exercise of by-law making powers by bands. These regulations, if and when they are established, must be taken into account when drafting a taxation by-law. According to subsection 83(6) of the *Indian Act*, a taxation by-law will remain in force only to the extent that it is consistent with any regulations made under subsection 83(5).

The *Indian Act* does not require a specific person to be responsible for drafting by-laws. The council decides who will do the drafting. Ultimately, the council itself is responsible for what is drafted, because if the validity or interpretation of the by-law is challenged, the council will have to defend it in court.

Since taxation by-laws are important by-laws and their good quality is imperative, it is advisable for councils to hire an experienced lawyer to help formulate and draft these by-laws. Taxation by-laws drafted by laypersons, without the requisite knowledge of property taxation law and statutory interpretation, would be difficult to support in the courts if their validity or interpretation is challenged.

The likelihood of challenges is great. Since people naturally do not like to pay taxes, it is almost inevitable that they will try to challenge new tax laws to avoid property tax liability altogether or, at the very least, they will appeal the quantum (amount) of their assessments. Quantum appeals will mean that by-law assessment provisions and procedures will undergo careful scrutiny by assessment review boards and the courts.

2. Passing and Amending Taxation By-laws

The Indian Taxation Advisory Board will provide councils with advice on improving their taxation by-laws. Given the Board's significant level of involvement, councils may find it expedient to discuss drafts of proposed by-laws with the Board or its Secretariat before they officially pass the by-laws.

A by-law can only be passed with "the consent of a majority of the councillors of the band present at a meeting of the council duly convened".[11] If the Indian Taxation Advisory Board makes suggestions for changes or additions to a draft by-law, before the by-law is passed, then changes can readily be incorporated. However, once the by-law is passed by the council it can only be changed by passing a new by-law, thereby repealing or amending provisions in the former by-law.

After completing consultations with the Board over a draft by-law, a council could then prepare the version of its by-law to be voted on, and, if passed, to be submitted to the Minister for consideration.

No particular procedures are set out in the *Indian Act* or its regulations for passing or amending a taxation by-law. However, given the importance of such by-laws, councils would be wise to adopt a system for passing a taxation by-law similar to the one used in most legislatures. A by-law would be given three "readings" before it is finally passed. In other words, the council studies a by-law three times. During the process, the council examines the by-law clause by clause. In many cases, formal public notice of the by-law might be required (for example, giving notice by advertising in a newspaper) and the public could be invited to submit comments on the by-law to the council at special meetings. Under this type of procedure, all the members of the council can become well acquainted with the by-law, and public reaction to it, before it is passed.

Once passed, a by-law is not permanently etched in stone. A by-law can be amended (revised) or repealed (revoked). To amend or repeal a by-law, a new by-law must be drafted, stating that it amends or repeals the previous by-law or sections of it. An amending or repealing by-law is drafted and processed in the same way as an original by-law. A by-law can only be changed by another by-law; it cannot be changed simply by a "band council resolution".

Changes to a by-law may be initiated internally by a council when it decides the by-law needs to be brought up to date to reflect changing times, conditions or attitudes. For example, a council that originally did not provide for a business tax in its by-law may decide later to amend its by-law to include such a tax.

Changes to a by-law may also result from public pressure. First nation/band members or occupants of the reserve may try to persuade the council to make certain revisions to a by-law which they consider to be necessary.

Whether or not the need for specific detailed changes becomes apparent or is made apparent, it is good policy for a council periodically to review its taxation by-law in general. A general review will determine whether the by-law is meeting its objectives, whether it is as effective as possible, and whether it contains any flaws or loopholes that should be corrected.

E. Appeals in Respect of Assessments

Subsection 83(3) of the *Indian Act* requires taxation by-laws to provide "an appeal procedure in respect of assessments made for the purposes of taxation". A statutory right of appeal is fundamental to any tax assessment process for two reasons. First, the nature of the assessment process is such that an assessment decision is made only on the strength of an assessor's judgment, without any prior hearing providing input from the party assessed. Second, a fundamental rule of the common law relating to administrative procedures, like assessments, is that everyone has a right to a hearing where matters are involved affecting that person's liberty or property rights. This rule is derived from the principles of natural justice, which are fundamental principles of administrative law that basically ensure (i) a person's right to a hearing and (ii) that the person is heard by an impartial tribunal.

To comply with the hearing rule, while allowing assessors to make preliminary decisions without hearings, tax assessment statutes always provide appeal mechanisms for stating objections to assessments. These rights of appeal, in effect, are rights to subsequent hearings.[12] If no right of appeal were provided for by the governing statute, then under the common law the courts might well find the assessment process to be operating contrary to the principles of natural justice and particularly to be contravening the rule that gives a person the opportunity to have a hearing.

In the case of taxation of non-Indians on Indian lands, another compelling reason exists for having included a statutory right to appeal assessments in the *Indian Act*. Non-Indian leaseholders of Indian land are unable to vote in first nation/band elections and, therefore, they will rely more than usual on the adjudicative processes for appeal rather than the political processes ordinarily available for expressing dissatisfaction.

The *Indian Act* does not detail the types of appeal processes that councils should establish in their taxation by-laws. However, whatever appeal mechanisms are put in place they will have to adhere to the principles of natural justice, since, as mentioned above, the appeal is in effect a subsequent hearing.

Since natural justice supports a person's right to a hearing by an impartial tribunal, the complainant (who usually will be the party assessed) must be afforded the opportunity to have his complaint heard. In other words, he must be given a chance to state his reasons for objecting to the assessment. Secondly, the complainant must be given the right to have his objection heard by an unbiased tribunal.

Writing on the subject of bias, a leading authority on administrative law explained: "The common-law . . . disqualifies a judge, magistrate or independent arbitrator from adjudicating whenever circumstances point to a real likelihood that he will have a bias, by which is meant 'an operative prejudice, whether conscious or unconscious', in relation to a party or an issue before him. Members of appeal tribunals determining tax assessments . . . fall into the same category [as judges, magistrates and arbitrators]".[13]

To be considered free of bias, members of an assessment appeal body would have to have no material interest in the outcome of the assessment and they would also have to have no apparent, even if not actual, predisposition to a certain outcome and they must not have had any involvement in a preliminary stage of the assessment.

Two avenues of appeal have been created in provincial/municipal jurisdictions to deal with tax assessment complaints. The first route is administrative, the second is judicial. The administrative route involves recourse by the complainant to a special board, council or tribunal charged with the responsibility of hearing assessment grievances. The judicial route, on the other hand, provides a party with access to the court system.

Generally, an appeal before a board or tribunal is preferred over court proceedings for the following reasons:

> *. . . because [a tribunal's] members will have (or will soon acquire) specialized knowledge of the subject-matter, because it will be more informal in its trappings and procedure, because it may be better at finding facts, applying flexible standards and exercising discretionary powers, and because it may be cheaper, more accessible and more expeditious than the High Court.*[14]

Despite the advantages of tribunal processes, certain complex legal questions need to be settled by the courts. Thus, multi-levelled appeal systems, involving administrative bodies and the courts, have evolved in jurisdictions where property assessment is carried out.

Appeal systems vary from province to province according to the design of the governing statute. By referring to the various provincial assessment statutes, examples can be found of the types of appeal mechanisms which have been established.

For the purposes of illustration, the *Ontario Assessment Act* creates the following system of appeal. First, at the preliminary administrative appeal level, any person may complain in writing to the Assessment Review Board that he or another person (1) was assessed too high or too low; (2) was wrongly placed on or omitted from the roll as a public or separate school supporter.[15] At the next level of administrative appeal, an appeal to the Ontario Municipal Board can be made regarding any decision of the Assessment Review Board carried out at the first level. The Ontario Municipal Board appeal shall be by way of a new trial.[16] (It should be noted that the Indian Taxation Advisory Board is *not* an appeal body or municipal board.)

A decision of the Ontario Municipal Board, that involves a question of law (as opposed to a question of fact) can be appealed to the Divisional Court, with the permission of that Court.[17] This appeal mechanism places the appellant in the judicial channel of appeal.

A person can also enter the judicial channel directly, avoiding the administrative route, by applying to the Ontario Supreme Court or the County Court to have any question relating to the assessment determined. However, questions of omission from, or placement on, the roll or questions of over or under valuation, which are the initial responsibility of the Assessment Review Board, will not be considered by applying directly to the court; they can only reach the court via the administrative appeal route.[18]

The above example illustrates the inter-relatedness of the administrative and judicial appeal systems. Councils faced with establishing an appeal procedure for assessments made under their authority must consider how many levels of administrative appeal will be needed, whether they can use existing mechanisms (such as a province's assessment review board or municipal board) at certain levels to avoid the high costs of establishing a totally separate, multi-level appeal system and, finally, how they will link their administrative appeal system to the federal court system to provide a judicial avenue of appeal.

Part Two

A. Introduction

In January 1989, the Minister of Indian Affairs and Northern Development established the Indian Taxation Advisory Board to review all taxation by-laws and to make recommendations as to their approval.

This Board is comprised of 10 members, the majority of whom are Indians, and all of whom possess knowledge and experience in areas such as Indian government, intergovernmental relations, property taxation, reserve land development, the provision of government services, and other related areas. A variety of perspectives are represented on the Board in recognition of the wide ranging implications of a new system of Indian taxation. The Board was not created by Bill C-115 or any other Act of Parliament. Instead, it is an administrative body appointed by the Minister of Indian Affairs to assist in carrying out his responsibilities related to Section 83 of the *Indian Act*.

The Board is concerned primarily with facilitating the establishment of high quality band property taxation systems. It will examine and advise on taxation by-laws in their overall context, including their effects on other taxing jurisdictions and on ratepayer interests. Since property taxation by first nations/bands is a new and complex undertaking, the Board will also provide advice and guidelines to first nation/band councils.

B. Activities of the Indian Taxation Advisory Board

The Minister of Indian Affairs and Northern Development has established the following as the Mandate and Activities of the Indian Taxation Advisory Board.

The Activities of the Indian Taxation Advisory Board will be carried out with the support or through the agency of the Indian Taxation Secretariat.

1. Policy

Mandate Statement
To advise the Minister on policy issues relating to the taxation powers of Indian first nations/ bands exercised pursuant to Section 83 of the *Indian Act*, including the relationship of tax rates and revenues to expenditures, and on any related matter put to it by the Minister.

Activities

1.1 The Board will develop policy guidelines to govern its own recommendations to the Minister.

1.2 The Board will make recommendations on regulations or amendments to regulations for ultimate approval by the Governor-in-Council.

1.3 In developing particular policies, the Board will consult with Indian bands and organizations as well as solicit views of provincial and municipal authorities and other interested parties.

1.4 The Board will initiate recommendations on policies to the Minister. (*Note:* procedures to implement by-laws should be as simple and streamlined as possible.)

2. Relationship with First Nations/Bands

Mandate Statement
To keep first nations/bands informed of the activities, policies and decisions of the Board; upon receipt of a proposed by-law to consult with the first nation/band on improvements to the by-law and provide technical input and advice; and to enable first nations/bands to have full input into the by-law analysis and approval process.

Activities

2.1 The Board will provide information and advice on models for by-laws, technical matters, inter-jurisdictional arrangements, appeal procedures, etc., and generally be available to first nations/bands seeking advice on the development of taxation by-laws.

2.2 The Board will provide first nations/bands with guidelines, policies, regulations or decisions relating to taxation by-laws.

2.3 First nation/band council members will be given the opportunity to meet with the Board to discuss by-laws during the course of their development; and, where possible, the Board will solicit opinions from first nations/bands about goals, options and objectives of particular by-laws.

2.4 The Board may sponsor and promote consultations between first nations/bands and other jurisdictions and parties affected by proposed by-laws.

3. Relationship to the Minister

Mandate Statement

To make recommendations to the Minister relating to individual by-laws by examining all such taxation by-laws submitted with a view to the following principles: equity, natural justice, comprehensiveness and conformity with enabling legislation to assess the local impact of by-laws for the information of the Minister.

Activities

3.1 Each by-law submitted to the Minister by a first nation/band will be transmitted to the Board with an analysis and recommendation prepared by the Secretariat, including a synopsis of advice from the Department of Justice if necessary.

3.2 In conformity with the mandate of 3.0, the Board shall make its recommendations to the Minister concerning the passage of the by-law, including the Board's comment, if any, on the recommendation of the Secretariat.

3.3 In the case of Board recommendations to which the Minister may not agree, the Minister will invite the Board to review the situation prior to making a final decision.

3.4 The Board will provide the Minister with an annual review of first nation/band taxation by-laws in force or under consideration.

3.5 The Director will regularly advise the Board on the status of by-laws submitted by the Board to the Minister.

4. Relationship with Other Jurisdictions

Mandate Statement

To foster and participate in mechanisms designed to achieve cooperation between first nation/band taxation regimes and the taxation systems of provincial, municipal or regional governments.

Activities

4.1 The Board will encourage and participate in joint committees with other jurisdictions or other appropriate mechanisms, for the purpose of assisting in the establishment of cooperative approaches with other taxation and financial systems.

4.2 The Board will act, as required, as a mediator between other jurisdictions and individual first nation/band councils in respect of problems regarding taxation by-laws.

4.3 The Board may sponsor and coordinate studies, reviews and seminars or conferences with other jurisdictions on general matters related to first nation/band taxation.

5. Relationship with Taxpayers

Mandate Statement
To hear taxpayers concerns with respect to an individual by-law, and recommend to the first nation/band any changes, within the purview and ambit of Section 83 of the *Indian Act*; to advise first nations/bands and the Minister on the handling of appeals from assessment with a view to ensuring qualified and impartial appeals and equitable treatment under the by-law.

Activities

5.1 The Board will provide guidelines and advice to first nations/bands on appropriate mechanisms for appeals from assessment ensuring competence and impartiality.

5.2 The Board or a panel of the Board may meet with taxpayer organizations or individual taxpayers and hear concerns with respect to individual taxation by-laws. The Board shall advise a first nation/band in advance of such a hearing. The Board may make recommendations to a first nation/band for changes to the by-law consistent with the purposes of Section 83 of the Act.

5.3 The Board will disseminate public information and foster public awareness with regard to the nature, purpose and administration of Indian taxation by-laws.

6. Review and Analysis

Mandate Statement
To report annually to the Minister.

Activities

6.1 The Board will annually review the progress of first nation/band taxation, the effectiveness and implementation of policies, and general administration under Section 83 of the *Indian Act* and report in writing to the Minister.

6.2 The Board will sponsor studies and analyses related to first nation/band taxation.

6.3 The Board will review the management of Board/Secretariat operations.

C. The Indian Taxation Secretariat

The Secretariat has been set up to serve the Board's needs for technical and policy advice and logistical support. The Secretariat is also the Departmental centre for Indian taxation by-law administration.

The activities of the Board generate recommendations to the Minister, policy statements, publications, technical analyses, advice to first nations/bands annual reports, board meetings, hearings, intergovernmental relations, and so forth. In all these activities, the Board is supported by the Secretariat.

In addition, the Secretariat assists the Board with its advisory and analytical functions. The Secretariat reviews by-laws in detail and makes recommendations to the Board. Under the direction of the Board, the Secretariat is ready to help councils develop sound, suitable by-laws which have a good potential for receiving the Minister's approval.

D. The By-Law Approval Process

The question every council is bound to ask is, how long will it take to have our by-law approved? To address this question, the Board has established a schedule to assist in planning and scheduling by-law preparation and decisions. This schedule is fixed around Board meetings which take place in **March, June, September and December.**

For by-laws sent to the Board in:
November, December or January the recommendation of the Board will be made in **June**;
February, March or April the recommendation of the Board will be made in **September**;
May, June or July the recommendation of the Board will be made in **December**;
August, September and October the recommendation of the Board will be made in **March.**

As a general rule, communication between councils and the Board prior to the actual passage of a taxation by-law should greatly facilitate by-law development and approval.

Councils have the opportunity to correspond with the Board on their by-laws as they are being developed. It is not necessary to have an actual by-law passed before this can be done. If a council is interested in passing a by-law, it should write to the Board or contact the Regional Office of the Department and inform it of their interest. The Board may then be able to provide the council with useful information to help it get started. The address of the Board can be found at the front of this booklet.

As the council develops its by-law, it may wish to seek clarification on specific elements of the by-law such as the appeal process. The Board could provide suggestions and clarifications. Councils will be supplied with copies of written guidelines, policies, regulations or decisions that relate to taxation by-laws as these are developed. Most important here will be a general guide to by-law development now being prepared by the Board.

The Board may be able to assist in consultations between councils and other governments or parties affected by a proposed by-law. For example, a council may wish to enter into an agreement with an adjoining municipality which could require an adjustment in a tax base. The Board may be able to provide information or advice to assist all parties in achieving a solution. If a council is interested in this type of service, it may contact the Board.

Appendix

Criteria of the Standing Joint Committee for the Scrutiny of Regulations

A Committee of Parliament called the "Standing Committee for the Scrutiny of Regulations" has set out criteria governing regulations and other statutory instruments. Band councils by-laws are federal statutory instruments. However, they are exempt from examination under the *Statutory Instruments Act* by virtue of a regulation under that same *Act*. Nonetheless, the Standing Committee's criteria remain a useful guide to producing valid by-laws. These criteria are set out below. The by-law would not be valid if it:

1. is not authorized by the terms of the enabling statute (*Indian Act*) and does not state the precise authority for its making;
2. does not conform with the *Canadian Charter of Rights and Freedoms* and the *Canadian Bill of Rights;*
3. purports to have a retroactive effect without express authority in the legislation;
4. imposes a charge or payment or prescribes the amount of such charge or payment without express authority in the legislation;
5. imposes a fine, imprisonment or other penalty without express authority in the legislation;
6. tends directly or indirectly to exclude the jurisdiction of the courts without express authority in the legislation;
7. does not comply with the aim of the *Statutory Instruments Act* with respect to notification to persons affected by the by-law;
8. appears to infringe on the rule of law;
9. trespasses unduly on rights and liberties;
10. makes the rights and liberties of the person dependent on administrative discretion or is inconsistent with the rules of natural justice;
11. makes unusual or unexpected use of the powers conferred by the *Act*;
12. appears to amount to a substantive legislative power and not merely to the formulating of subordinate provisions in the legislation;
13. requires clarification as to its form or content; or
14. attempts to convey an unauthorized sub-delegation of authority in a manner not allowed by the *Indian Act*.

Notes

1. W. Daugherty & D. Madill, *Indian Government Under Indian Act Legislation 1868–1951*, Part Two (Ottawa: Department of Indian Affairs and Northern Development, 1980) at 10.
2. *The Indian Advancement Act, 1884*, S.C. 1884, c.28, s.10, para. 11.
3. Provinces and municipalities have been allowed to assess and tax the real property interests of non-Indians on Indian land, despite the fact that they cannot tax Indian land itself, owing to the Supreme Court of Canada decision in *Smith v. Rural Municipality of Vermillion Hill* (1914), 49 S.C.R. 563, aff'd (1916), [1916] 2 A.C. 569. In that case, the court ruled that an occupier of Federal Crown lands could be taxed by the rural municipality in respect of his/her interest as an occupier of the land. Even though the municipality could not tax the Crown land itself, it could tax a non-Crown interest in the land.
4. *Provincial and Municipal Finances 1987* (Toronto: Canadian Tax Foundation, 1988) at 11:1.
5. *Ibid.* at 11:3.
6. F.H. Finnis, *Property Assessment in Canada - Canadian Tax PapersNo. 62* (Toronto: Canadian Tax Foundation, 1979) at 1.
7. *Ibid.*
8. F.A. Clayton, "Real Property Tax Assessment Practices in Canada" (Supplement 1976) 2 *Can Public Policy* 348 at 349. Clayton's views are presented in R.W. Broadway and H.M. Kitchen, *Canadian Tax Policy – Canadian Tax Papers No. 63* (Toronto: Canadian Tax Foundation, 1980) at 168.
9. *Provincial and Municipal Finances, supra*, note 4 at 11:20.
10. *Municipal Act*, R.S.O., 1980, c.302, s.104.
11. *Indian Act*, s.2(3)(b).
12. J.M. Evans, ed., *De Smith's Judicial Review of Administrative Action* (London: Stevens, 1980), at 193.
13. *Ibid.* at 253.
14. *Ibid.* at 20.
15. *Assessment Act*, R.S.O. 1980, c.31, s.39.
16. *Assessment Act*, R.S.O. 1980, c.31, s.47.
17. *Ontario Municipal Board Act*, R.S.O. 1980, c.347, s.95.
18. *Assessment Act*, R.S.O. 1980, c.31, s.50.
19. P.W. Hogg, *Constitutional Law of Canada* (Toronto: Carswell, 1985) at 640. The author suggests that the Canadian Bill of Rights lost most of its importance in 1982 when the Charter of Rights became law in Canada. He notes, however, that those provisions of the Bill of Rights that were not duplicated by the Charter, i.e., that were left out of the Charter, are still in force and continue to have legal effect as part of the Bill of Rights. "These are two in number: (1) the Bill's 'due process' clause (s.1(a)), which extends to the protection of *property*, and (2) the Bill's guarantee (s.2(e)) of a *fair hearing* for the determination of rights and obligations. Both these provisions go beyond the guarantees in the Charter, and will therefore continue to be operative restraints on federal (but not provincial) activity." [Emphasis added].

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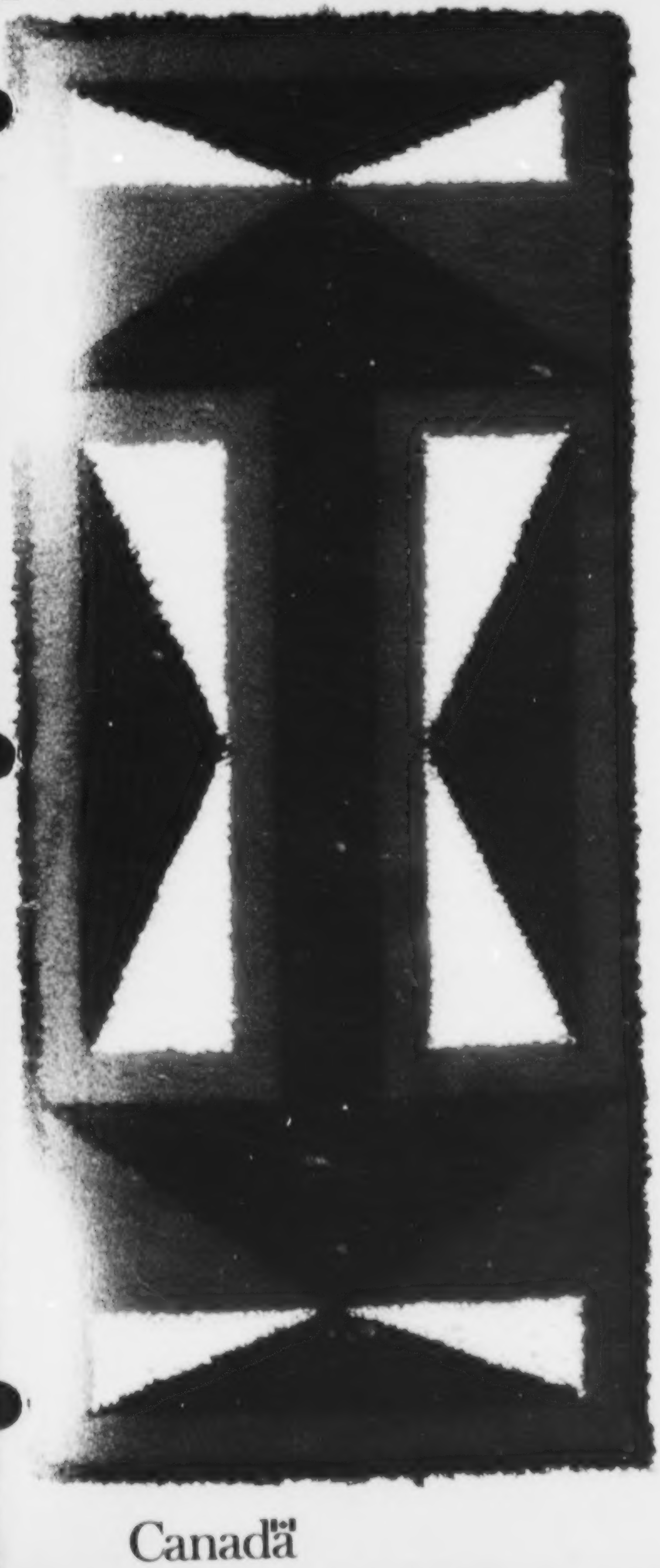

Introduction à l'imposition foncière sur les réserves

**Commission consultative
de la fiscalité indienne**

Canada

Introduction

à l'imposition

foncière

sur les réserves

Commission consultative
de la fiscalité indienne

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Introduction

Cet opuscule, composé par la Commission consultative de la fiscalité indienne, a pour objet de présenter une introduction aux principes de base de l'imposition foncière en vertu des dispositions énoncées dans la *Loi sur les Indiens*, principalement dans l'intérêt des Premières nations et des bandes qui songent à se prévaloir de leurs pouvoirs d'imposition.

La Partie Un expose les notions fondamentales de l'imposition foncière, et plus particulièrement, les objectifs essentiels de l'imposition foncière, l'évaluation des biens, le calcul des taux d'impôt, les différents types d'imposition et l'importante question des contestations.

Cette Partie Un explique également les nouvelles dispositions de la *Loi sur les Indiens* incluses dans le projet de loi C-115 (en date de juin 1988), ainsi que la nature des statuts administratifs en matière d'imposition et les exigences à respecter en vue de leur établissement.

La Partie Deux présente la Commission consultative de la fiscalité indienne, nouvellement formée, et décrit son rôle et son mandat. Elle expose le processus d'approbation des statuts administratifs, tout en faisant ressortir les avantages d'une interaction entre les Premières nations ou les bandes et la Commission, préalablement à l'adoption de statuts administratifs. Elle montre aussi la succession des étapes dans le processus d'approbation des statuts administratifs.

En conséquence des modifications apportées en 1988 à la *Loi sur les Indiens*, les pouvoirs d'imposition des Premières nations et des bandes ont été élargis et renforcés de façon considérable. Précisons que, pour la première fois depuis 1884, ces pouvoirs s'appliquent clairement et explicitement à des intérêts non-Indiens, y compris les terres louées à bail dans des réserves et les terres désignées (auparavant dites « cédées sous condition »).

Nombreuses sont les Premières nations et les bandes qui envisage la possibilité de se prévaloir de ces nouveaux pouvoirs. La présente brochure devrait être utile aux conseils dans leurs délibérations à ce sujet. Par contre, toutes ne ressentiront pas le besoin ou ne verront pas l'utilité d'adopter des statuts administratifs en matière d'imposition, soit parce que la recette fiscale potentielle n'en vaudrait pas la peine, soit à cause du coût ou des difficultés que représenterait une telle démarche. Négocier des accords directement avec des contribuables potentiels ou s'entendre sur des frais de service, pourrait dans ces circonstances être plus approprié.

Les Premières nations et les bandes qui sont intéressées par le sujet apprendront, à la lecture de cet opuscule, ce que l'établissement d'un nouveau régime d'imposition représente comme tâche.

À l'évidence, la mise sur pied d'un régime d'imposition est une entreprise de taille. C'est la raison pour laquelle le gouvernement a créé la Commission consultative de la fiscalité indienne et le Secrétariat de la fiscalité indienne. L'existence de cette Commission consacre l'adoption d'une nouvelle façon d'administrer sous le régime de la *Loi sur les Indiens*. La Commission est la première institution administrative, dont la direction est indienne, à exercer des pouvoirs décisionnels en vertu de la *Loi*. Son rôle consiste à faciliter le recours à des statuts administratifs concernant l'imposition de taxes et, dans ce dessein, à fournir conseils et aide aux Premières nations et aux bandes; à agir au besoin comme médiateur auprès des parties concernées, y compris d'autres gouvernements; à formuler des recommandations officielles au Ministre quant à l'approbation de statuts administratifs qui, le cas échéant, acquerront force de loi.

Cet ouvrage a été rédigé principalement dans le but d'informer les conseils des Premières nations et des bandes au sujet des dispositions relatives à l'imposition foncière que renferme l'article 83 de la *Loi sur les Indiens*. Il convient cependant de signaler que le pouvoir réglementaire tel qu'il est défini à l'article 83 n'est pas en lui-même expressément limité à « l'imposition foncière », mais que son champ d'application comprend « les immeubles situés dans la réserve, ainsi que les intérêts afférents », ou « les droits d'occupation, de possession et d'usage ». L'imposition foncière, dans le sens d'une taxation *ad valorem*, est fondée sur une estimation de la valeur du terrain et des immeubles ou d'autres améliorations qui s'y trouvent. Comme chaque contribuable est imposé d'un montant basé sur la valeur de ses terres et des biens qui s'y trouvent, cette forme d'imposition permet de respecter au mieux le principe de l'équité. Mais il existe d'autres méthodes pour calculer et évaluer les impôts applicables aux terres ou à leur utilisation, qui peuvent aussi assurer le respect du principe de l'équité et qui pourraient également être admises en vertu de l'article 83. Dans de tels cas, la base de l'évaluation foncière ne repose pas nécessairement sur la valeur du bien foncier, mais peut comporter d'autres unités mesurables. Le présent opuscule ne traite de ces autres méthodes qu'à l'occasion. Ajoutons que les conseils disposent, en vertu de l'alinéa 83(1)f), d'un vaste pouvoir pour « la réunion de fonds provenant des membres de la bande et destinés à supporter les entreprises de la bande », pouvoir dont ne traite pas le présent ouvrage.

Nous rappelons aux lecteurs que cette publication n'est qu'un guide explicatif général sur l'imposition foncière aux termes de la *Loi sur les Indiens*. Pour plus de certitude, nous leur conseillons de consulter la *Loi sur les Indiens* et tous autres règlements afférents ou directives officiellement adoptées, et de s'adresser également à un conseiller juridique.

Toute personne qui désire obtenir de plus amples renseignements sur l'imposition foncière des Premières nations et des bandes est invitée à s'adresser à la Commission consultative de la fiscalité indienne. Cette dernière accueille avec plaisir tous commentaires et suggestions susceptibles d'améliorer la présente publication.

L'adresse de la Commission consultative de la fiscalité indienne est la suivante :

Commission consultative de la fiscalité indienne
Les Terrasses de la Chaudière
10, rue Wellington
Ottawa (Ontario)
K1A 0H4

Partie un

A. Incidence du projet de Loi C-115

Les conseils des Premières nations et des bandes détiennent le pouvoir de lever des impôts sur les biens fonciers depuis plus d'un siècle. En effet, c'est en 1884 que le Parlement adoptait l'*Acte de l'avancement des Sauvages*, lequel, disait le premier ministre Sir John A. MacDonald lorsqu'il s'adressait au Parlement, visait à encourager les Indiens à se donner une administration locale autonome[1]. Cette *Loi* donnait aux conseils le pouvoir, parmi d'autres, de lever des impôts sur les biens fonciers situés dans la réserve et appartenant à des Indiens[2].

Par conséquent, le pouvoir conféré par la *Loi sur les Indiens* d'imposer des taxes sur des intérêts détenus dans des biens fonciers situés dans les réserves n'est pas nouveau. Par contre, il a fallu attendre les années 1970 pour voir des Premières nations et des bandes commencer à établir des statuts administratifs visant à prélever des fonds au moyen de l'évaluation et de l'imposition d'intérêts détenus dans des terres situées dans la réserve. Et, depuis lors, seulement une poignée d'entre elles ont exercé leur pouvoir d'imposition foncière. En outre, un fondement juridique réellement opérant relatif à l'exercice de ce pouvoir n'a été défini clairement que depuis juin 1988, par une *Loi modifiant la Loi sur les Indiens (terres désignées)*, due à l'initiative du chef Clarence Jules et du conseil de la bande indienne de Kamloops.

La demande présentée par la bande indienne de Kamloops de modifier la *Loi* est apparue aux yeux de celle-ci comme une solution de nature à régler un problème qui s'est posé à la bande lorsque cette dernière a aménagé un parc industriel sur ses terres cédées sous condition. En vertu d'une « cession », les droits afférents aux terres d'une réserve sont remis à Sa Majesté (c'est-à-dire au gouvernement fédéral), ce qui permet alors au gouvernement d'autoriser des non-Indiens à les acquérir, par voie d'achat ou de location à bail. Pour aménager son parc industriel, la bande de Kamloops a dû « céder sous condition » cette partie des terres de sa réserve pour que les terres ainsi cédées puissent être louées à bail à des non-Indiens. La bande assuma les coûts d'aménagement des terres et d'installation des infrastructures pour les locataires du parc, notamment des routes, des systèmes d'adduction d'eau et d'égouts, même si la province de la Colombie-Britannique, exerçant en cela son pouvoir de taxation, imposait des taxes foncières en même temps aux locataires non-Indiens du parc.Généralement, des impôts fonciers sont perçus pour financer des services de base du genre de ceux que la bande de Kamloops fournissait. Par contre, comme la Province n'était pas tenue de fournir ce genre de services sur des terres cédées sous condition, la bande a été contrainte d'imposer des frais de services substantiels aux résidants du parc pour financer les services. Il va sans dire que le fardeau financier supplémentaire imposé aux résidants du parc, tenus de payer à la fois des impôts fonciers provinciaux et des frais de services fournis par la bande, faisait en sorte qu'il était plus difficile pour la bande de concurrencer les autres parcs industriels, pour ce qui est d'attirer une clientèle.

De nombreuses années plus tard, la bande de Kamloops en est venue à la conclusion, au début des années 1980, qu'elle devait songer à exercer son propre pouvoir de percevoir des impôts. Toutefois, en tentant cette démarche, la bande a constaté l'évidence de lacunes dans la *Loi sur les Indiens*, particulièrement en ce qui concerne la portée en apparence limitée des pouvoirs du conseil pour adopter des statuts administratifs relativement aux terres cédées sous condition. En 1984, une distinction était établie, aux termes d'une décision rendue par un tribunal (dans l'affaire *Leonard v. R. in Right of British Columbia* (1984), 52 B.C.L.R. 389, C.A.), entre terres de réserve et terres cédées sous condition. Il semblait alors possible que la version antérieure à la modification de l'article 83 – définissant les pouvoirs d'imposition des bandes – de la *Loi* puisse s'appliquer aux terres « de réserve », à l'exclusion des terres cédées sous condition.

En outre, d'autres pouvoirs du conseil de bande en matière de taxation locale auraient pu aussi exclure les terres cédées sous condition. Par exemple, les alinéas *f), g)* et *h)* du paragraphe 81(1) de la *Loi* donnent aux conseils le pouvoir d'établir des statuts administratifs concernant l'aménagement et l'entretien de routes, de ponts et d'autres ouvrages locaux, la division des terres en zones, la réglementation de la construction, de la réparation et de l'entretien. Cependant, tous ces pouvoirs n'auraient pu être exercés que dans la « réserve ».

Aussi la bande de Kamloops en vint-elle à la conclusion que pour être en mesure d'exercer ses pouvoirs d'imposition foncière et de procéder à la division en zones et à la réglementation des terres qu'elle avait mises en valeur pour son parc industriel, il devrait être nécessaire d'élargir la définition de « réserve » dans la *Loi sur les Indiens*, de façon à y englober les terres cédées sous condition. En conséquence, le chef Clarence (Manny) Jules de la bande de Kamloops écrivit à tous les chefs pour leur demander d'appuyer sa requête de modification de la *Loi sur les Indiens* et soumit ultérieurement une proposition précise au gouvernement fédéral, au printemps de 1985. La proposition de la bande fut très favorablement reçue par le gouvernement et devint en fin de compte une *Loi modifiant la Loi sur les Indiens (terres désignées)*; au terme de trois années de consultations et de travail intenses, le Parlement ratifiait la modification en loi. Dans les trois sections qui suivent, nous allons exposer les principaux effets de la modification en matière d'imposition.

1. Éclaircissements relatifs au statut juridique des terres cédées sous condition

Dans le passé, les tribunaux qui ont eu à déterminer si les terres cédées sous condition étaient de la compétence fédérale ou provinciale, en vertu des pouvoirs définis dans la Constitution, statuèrent que des terres cédées sous condition à des fins de location à bail demeuraient « des terres mises en réserve pour des Indiens » et que, par conséquent, elles relevaient de la compétence du gouvernement fédéral, suivant les dispositions du paragraphe 91(24) de la *Loi constitutionnelle de 1867*. En conséquence, les lois provinciales ou les règlements municipaux touchant les terres se révélaient *ultra vires*, c'est-à-dire inopérants pour ce qui est des terres situées dans des réserves ou des terres cédées sous condition, exception faite des règlements provinciaux ou municipaux sur l'imposition foncière applicables aux intérêts détenus par des non-Indiens dans des biens immeubles[1].

Pourtant, les pouvoirs d'établissement de statuts administratifs conférés par la *Loi sur les Indiens*, antérieurement à la modification de Kamloops, ne s'appliquaient explicitement qu'aux « terres de réserve », et il était bien peu probable que ces pouvoirs puissent s'appliquer aux « terres cédées sous condition ». La définition de « réserve » et les références aux réserves dans le texte de la *Loi* n'étaient pas censées inclure « les terres cédées », puisque ces dernières étaient définies de façon distincte dans la *Loi*.

De toute évidence, un vide législatif existait. Compte tenu des définitions de « réserve » et de « terres cédées » contenues dans la *Loi sur les Indiens* et des limites de compétence imposées aux conseils de bande par la *Loi*, et aux gouvernements provinciaux par la Constitution, nul, à l'exception du Parlement, ne pouvait édicter des lois visant à contrôler la planification et la mise en valeur des terres cédées sous condition, avant la ratification du projet de loi C-115. La nouvelle définition de « réserve » incorporée dans la *Loi sur les Indiens* par le projet de loi C-115 vient combler ce vide juridique. L'ancienne définition de « réserve » est maintenue, mais le terme englobe désormais les « terres désignées », sauf dans certains articles qui sont précisés.

« Terres désignées » est une expression nouvelle ayant pour objet d'établir une distinction entre les terres cédées « à titre non absolu » des terres cédées « à titre absolu ». Cette distinction s'imposait afin d'éviter toute possibilité que les deux types de cession puissent être confondus. Lorsqu'une cession est dite « moins qu'à titre absolu » (c'est-à-dire qu'il n'y a *aucune intention de vendre* la terre), alors le statut de « terre de réserve » n'est pas abandonné.

Il est maintenant indiqué clairement dans la *Loi* qu'une terre mise de côté à des fins de location à bail conserve son statut de « terre de réserve » et, par conséquent, demeure assujettie aux dispositions des statuts administratifs du conseil et continue de relever de l'autorité fédérale, du point de vue de la réglementation.

2. Élargissement du pouvoir réglementaire en matière d'imposition de taxes

La formulation de l'alinéa 83(1)a) antérieure à la modification conférait aux conseils le pouvoir d'établir des statuts administratifs concernant « la réunion de fonds au moyen de la cotisation et de l'imposition *des intérêts dans un terrain situé à l'intérieur de la réserve, que détiennent des personnes qui en sont légalement en possession* ». Cette façon de s'exprimer peut avoir été interprétée comme se rapportant uniquement à des Indiens possédant des terres selon le régime foncier indien, et non à des intérêts non indiens. En vertu de la nouvelle formulation de l'article 83, « les immeubles . . . ainsi que les intérêts afférents, et notamment . . . les droits d'occupation, de possession et d'usage » de terres de réserve (y compris des terres désignées) sont assujettis à l'imposition de taxes par les bandes à des fins locales. Ainsi, pour la première fois, les conseils disposent de pouvoirs clairs et explicites de taxer des intérêts non indiens dans des terres de réserve.

De plus, l'exigence faite aux Premières nations et aux bandes d'obtenir du gouverneur en conseil la reconnaissance du fait qu'elles ont atteint « un haut degré d'avancement », en vertu de l'article 83, pour pouvoir établir leurs statuts administratifs, a été levée. Cette disposition était paternaliste et offensante pour les peuples indiens. Par ailleurs, elle n'avait aucune utilité, puisque la notion de « haut degré d'avancement » n'était pas définie dans la *Loi*. Toutes les Premières nations et les bandes peuvent maintenant se prévaloir des pouvoirs définis à l'article 83.

Aux pouvoirs d'imposition désormais élargis s'ajoutent de nouveaux pouvoirs en ce qui concerne des mesures d'exécution forcée visant le recouvrement de taxes et la perception d'intérêts sur les comptes d'impôts en souffrance. Comme dans l'ancienne version de l'article 83, toute dépense à partir de fonds levés en application de ces nouveaux pouvoirs d'imposition doit être autorisée conformément à un statut administratif établi par le conseil.

Des dispositions visant à garantir l'exercice en toute équité des pouvoirs de taxation sont également incorporées dans l'article 83. Des mécanismes de contestation de l'évaluation foncière effectuée en vertu d'un statut administratif doivent aussi être prévus dans ledit statut. Cette exigence est d'autant plus importante que les locataires à bail non indiens de terres indiennes ne seront pas habilités à voter aux élections des Premières nations ou des bandes. Par conséquent, plus que jamais, ces locataires emprunteront des voies non politiques telles que des mécanismes d'appel autonomes, pour protéger leurs intérêts.

Enfin, de nouvelles dispositions de l'article 83 ont pour objet, respectivement, de réglementer l'exercice du pouvoir d'établissement de statuts administratifs en matière d'imposition de taxes et de définir le rôle du Ministre dans l'approbation des statuts administratifs. Le gouverneur en conseil est habilité, par voie de règlement, à régir l'exercice du pouvoir réglementaire de la bande. Ce pouvoir permet d'élaborer, progressivement, des normes d'établissement et d'approbation de statuts administratifs en matière de taxation, en vertu de l'article 83. Ces règlements assureront l'uniformité du processus et contribueront à le rationaliser. En ce qui concerne la préparation des règlements, le gouvernement s'en remettra aux recommandations de la Commission consultative de la fiscalité indienne.

Le Ministre a pour mandat d'examiner les statuts administratifs en matière de taxation et de les approuver, en totalité ou en partie. Il peut, à sa discrétion, approuver ou ne pas approuver ces statuts; néanmoins, en prenant sa décision, le Ministre tiendra compte des recommandations de la Commission consultative de la fiscalité indienne. La Partie Deux qui va suivre contient une description de la Commission et du processus d'approbation des statuts administratifs.

3. L'article 87 relatif aux biens exempts de taxation

L'article 87 de la *Loi sur les Indiens*, qui soustrait à la taxation l'intérêt d'un Indien ou d'une bande dans une réserve ou dans des terres cédées, n'a nullement été modifié par le projet de loi C-115. L'article 87 demeure assujetti aux dispositions de l'article 83.

Cela signifie, concrètement, que les conseils peuvent décider de taxer des intérêts indiens détenus dans des terres situées dans la réserve. Ces intérêts pourraient constituer une part substantielle de la base d'imposition, et si les conseils décidaient de taxer aussi ces intérêts en plus des intérêts non indiens, leurs statuts administratifs seraient moins susceptibles de paraitre discriminatoires ou inéquitables.

Les conseils souhaiteront peut-être de recevoir l'avis de la Commission, d'experts en fiscalité autonomes et de conseillers juridiques sur cette question qui risque de soulever des controverses.

B. Imposition foncière

1. Objet de l'imposition foncière

Les impôts fonciers sont une source majeure de revenus pour les administrations locales. En fait, les impôts fonciers, y compris les taxes spéciales reliées aux biens fonciers, comme les taxes d'affaires, constituent généralement leur source de revenus de loin la plus importante. « Ces taxes représentent, depuis le début des années 1970, entre 35 et 40 pour 100 des revenus des administrations locales. Auparavant, cette proportion pouvait constituer la moitié des recettes municipales. »[4]

Les autres sources de revenus des administrations locales comprennent habituellement les droits pour l'obtention de licences et de permis, les recettes provenant de contraventions et d'amendes, les revenus de placements, les subventions et les paiements de transfert. La plupart du temps, au Canada, les impôts fonciers sont perçus afin de couvrir les frais d'administration de la municipalité, que les autres sources de revenus ou les transferts provenant du gouvernement fédéral ou du gouvernement provincial concerné ne permettent pas d'absorber.

Les impôts fonciers constituent la principale source de financement des services fournis par les administrations locales, tels que routes, eau, égouts, installations sanitaires, déneigement, protection contre l'incendie et police, inspection des immeubles, vérification des plans et devis. Aussi les impôts fonciers sont-ils généralement considérés comme étant des taxes payées en retour d'avantages fournis sous forme de services municipaux. Ils représentent « une façon de répartir les coûts nets de l'administration de la municipalité parmi tous les contribuables, sur la base de la richesse de chacun, mesurée par la valeur estimative calculée de ses biens fonciers »[5].

Les impôts fonciers ont toujours été considérés comme une base de revenus stable et équitable, dans la mesure où ils reposent sur une évaluation exacte de la valeur réelle des biens.

2. Affectation des recettes provenant de l'imposition foncière dans les réserves

Dans le cas des conseils des Premières nations et des bandes, bien des coûts liés à la prestation de services dans la réserve sont couverts par des transferts de fonds et par des contributions en vertu de programmes fédéraux. Les fonds fédéraux ne couvrent cependant pas la totalité de ces coûts. Par exemple, ils ne permettent pas d'absorber les coûts liés à l'aménagement de terres indiennes destinées à être louées à des non-Indiens. Aussi les Premières nations et les bandes doivent-elles établir d'autres sources de revenus pour éponger les coûts non financés par le gouvernement fédéral. Les conseils ont maintenant la possibilité de financer la prestation de services locaux en imposant une taxe foncière dans les limites de leur autorité.

Au fil des ans, de nombreuses bandes ont financé certains services locaux au moyen de frais de service. L'un des avantages de l'imposition foncière par rapport aux frais de services tient au fait que, outre l'absorption des coûts liés à la prestation directe de services, comme l'enlèvement des ordures ménagères et l'eau, les impôts fonciers permettent également de couvrir les frais généraux de l'administration locale tels que les coûts liés à la planification, à la division des terres en zones, à la réglementation, à l'inspection et à la délivrance de permis. Les taxes foncières peuvent aussi servir plus efficacement à éponger les coûts de construction, d'amélioration des infrastructures matérielles, ainsi qu'à d'autres fins d'intérêt commun.

Pour qu'un régime d'imposition foncière se révèle viable, il doit être rentable. En d'autres termes, le coût de mise sur pied et d'administration du régime doit être entièrement compensé par les recettes que le régime est censé produire. Administrer un régime d'imposition foncière – c'est-à-dire, faire des évaluations foncières, prévoir des mécanismes de contestation, percevoir les taxes, recouvrer les taxes en souffrance – est un travail qui coûte cher. Les conseils qui envisagent d'instituer l'imposition foncière doivent faire en sorte que les recettes anticipées couvrent non seulement le coût des services locaux mais aussi les frais liés à l'instauration et à l'administration de leur régime d'imposition foncière. À cet égard, des ententes de coopération avec des administrations de régimes d'imposition foncière existants contribueraient à abaisser les coûts. Les bandes voudront peut-être aussi explorer des méthodes d'évaluation foncière autres que la méthode fondée sur l'estimation de la valeur des biens, qui peuvent présenter l'avantage d'être équitables tout en étant d'une administration plus simple. Par conséquent, avant d'en venir à exercer leurs pouvoirs d'établissement de statuts administratifs en matière de fiscalité, les conseils de bandes devront s'assurer que le régime d'imposition foncière qu'ils comptent instaurer sera rentable.

3. Éléments fondamentaux d'un impôt foncier

Les recettes susceptibles d'être produites par l'imposition foncière dépendent directement des deux composantes suivantes : l'assiette d'imposition et le taux d'imposition. Dans un régime d'impôt *ad valorem*, c'est-à-dire calculé sur la valeur, l'assiette d'imposition est la valeur estimée des biens immobiliers sur lesquels l'impôt est levé. Les terrains et les immeubles sont toujours inclus dans une assiette d'imposition foncière. Les machines et l'équipement incorporés à des biens immobiliers peuvent faire partie ou ne pas faire partie de l'assiette de l'impôt foncier, selon la définition donnée aux termes « bien foncier imposable » dans le texte de loi pertinent, en l'occurrence, le statut administratif.

Pour déterminer le quantum d'impôt à payer, on applique les taux d'imposition à la valeur estimée des biens d'un contribuable. La méthode de calcul et d'application des taux d'imposition est expliquée ci-dessous.

3.1. *Calcul des taux d'imposition foncière*

La méthode habituellement utilisée pour calculer les taux d'imposition foncière diffère des façons de procéder pour établir les autres taux d'imposition. L'objectif fondamental et la raison d'être de l'imposition foncière par les administrations locales est d'assurer l'équilibre de leur budget. En conséquence, le principe fondamental à respecter veut que tout écart négatif entre les dépenses et les recettes autres que l'impôt foncier, dans une année donnée, doit être comblé par des recettes fiscales obtenues pour cette même année.

Pour atteindre l'objectif de ne dépenser que les sommes d'argent dont elle dispose, une administration locale doit fixer un taux d'imposition convenable. Elle évalue en premier lieu le montant de recettes fiscales dont elle a besoin pour supporter les dépenses de la prochaine année financière, une fois défalqués les revenus provenant de toutes autres sources. Il faut ensuite diviser le total des recettes fiscales nécessaires par le total de la valeur estimée des biens imposables dans la zone visée. Le résultat obtenu est multiplié par 1 000, et c'est ce qu'on appelle le taux par mille. Pour exprimer la chose en termes simples, le taux par mille désigne le montant d'impôt à payer pour chaque dollar de valeur estimée, et il est exprimé en millièmes (trois décimales).

Si l'on transpose le tout sous forme d'équation, le taux par mille se calcule comme suit :

$$\frac{\textbf{Total des recettes fiscales nécessaires}}{\textbf{Total de la valeur estimée imposable}} \times 1\,000 = \textbf{Taux par mille}$$

Pour calculer le montant des impôts fonciers dû par contribuable, on multiplie la valeur estimée des biens immobiliers du contribuable par le taux par mille. Exprimé sous forme d'équation, le calcul se fait comme suit :

Valeur estimée x Taux par mille = Impôts à payer

À titre d'exemple, pour une propriété d'une valeur estimée à 5 000 $ et pour un taux par mille de 12 millièmes (c'est-à-dire 0,012 $ ou 1,2 cent d'impôt pour chaque dollar de la valeur estimée du bien imposable), la taxe à payer est de 60 $ (5 000 $ x 0,012).

Dans certaines administrations, les taux d'imposition ne sont pas calculés à l'aide de la formule du taux par mille. Au lieu de cela, on prend un pourcentage donné de la valeur estimée du bien foncier. Ce pourcentage est fixé par voie de statut et peut varier selon les divers types de biens immobiliers. Par exemple, des terres rurales ou forestières pourraient être taxées à un taux de un pour cent de leur valeur estimée et les terres agricoles à un taux de un demi pour cent de leur valeur estimée.

Les conseils qui choisissent d'instaurer un régime d'imposition foncière devront prendre des décisions, à savoir selon quelle méthode les taux de taxe foncière seront calculés dans leur aire de compétence. Il leur sera sans doute utile dans cette démarche d'examiner les méthodes utilisées dans les administrations voisines et de juger ensuite si ces façons de procéder leur conviennent. Les conseils auront aussi à décider s'ils comptent appliquer un taux d'imposition uniforme, quel que soit le type de bien foncier imposable, ou un taux multiple, c'est-à-dire variable selon la catégorie du bien immeuble évalué. Le taux multiple permettrait d'imposer des taux de taxe différents selon que les biens entrent dans la catégorie résidentielle, industrielle et agricole. Par exemple, le taux industriel pourrait être supérieur au taux résidentiel, suivant le principe que l'industrie peut supporter un taux d'imposition plus lourd qu'un particulier. Il est généralement reconnu qu'il est de bon aloi de s'en tenir à un petit nombre de catégories de taux différents.

Dans leur prise de décisions concernant les taux d'imposition, les conseils pourront, s'ils le jugent souhaitable, consulter la Commission et des experts en fiscalité autonomes.

3.2 Estimation de la valeur des biens fonciers

L'estimation de la valeur des biens fonciers est l'élément central de tout régime d'imposition foncière. Si les méthodes d'évaluation ne sont pas judicieuses et fiables, il y a peu de chance qu'un régime d'imposition foncière soit équitable. L'impôt foncier est une taxe sur la valeur foncière, et l'objet de l'évaluation est précisément de déterminer la valeur du bien foncier.

Qu'est-ce donc que l'évaluation foncière ? L'évaluation foncière est le processus par lequel on détermine la valeur de l'assiette de l'impôt foncier, constituée des biens fonciers et des intérêts qui y sont détenus, pour les besoins de l'imposition locale. Un expert canadien qui fait autorité dans les questions fiscales a défini l'évaluation des biens fonciers en ces termes[6] : « C'est un acte officiel, accompli par des évaluateurs mandatés, qui consiste à déterminer et à recenser les biens fonciers et à en estimer la valeur. Le résultat de l'évaluation détermine quels sont les biens qui constitueront la base de l'imposition locale et quelle est la part de taxes que chaque propriétaire de bien foncier devra assumer. »

La principale difficulté que doivent surmonter les administrations locales qui lèvent un impôt sur les biens fonciers de leur territoire réside dans le fait d'obtenir des évaluations foncières exactes. Pour éviter le manque d'uniformité ou d'équité des évaluations, le processus d'évaluation foncière utilisé par l'administration taxatrice doit être détaillé et complet, appliqué uniformément, ouvert et capable de résister à l'examen public. Autrement dit, « le but d'un processus d'évaluation foncière doit être de fournir un moyen équitable d'évaluer les biens, de telle façon que les taxes foncières qui en résultent puissent être levées et partagées de la manière la plus impartiale et la plus juste possible »[7].

En ce qui a trait aux régimes d'imposition foncière provinciaux ou municipaux, certains experts ont proposé que soient suivis les critères suivants afin d'assurer l'instauration d'un processus d'évaluation équitable[8] :

(a) Tout bien foncier, imposable ou non (c'est-à-dire, qu'il soit exempt ou non de taxation), doit être évalué;
(b) tout bien foncier doit être évalué à sa valeur marchande actuelle;
(c) les évaluations doivent être confiées à des employés qualifiés et expérimentés, appartenant à un organisme central directement et entièrement responsable de toutes les évaluations foncières réalisées à l'intérieur d'une province;
(d) la fonction d'évaluation foncière doit être organisée de telle façon que les évaluateurs finissent par bien connaître les marchés de l'immobilier sur le territoire où ils travaillent;
(e) les propriétaires de biens fonciers doivent avoir accès à l'information et à des instances d'appel en matière d'évaluation. Il est un autre principe courant selon lequel toutes les propriétés devraient être rééva-luées à intervalles réguliers, de préférence de moins de cinq ans.

Les conseils qui sont engagés dans la tâche d'établir des mécanismes d'évaluation foncière trouveront probablement utile de s'inspirer des critères qui précèdent pour instaurer un régime équitable.

Les conseils jugeront aussi sans doute profitable de comparer entre elles les diverses méthodes d'évaluation foncière en usage dans différentes provinces ou même dans des États américains, avant d'élaborer leur propre mécanisme. On sait que les régimes d'évaluation des biens fonciers varient d'une administration à une autre.

Certains conseils pourront aussi trouver plus économique d'« acheter » un service d'évaluation foncière auprès d'une province ou d'une municipalité dans les alentours, ou encore, de prendre certaines dispositions de nature coopérative avec de tels services existants pour qu'ils s'occupent, par exemple, de former des évaluateurs indiens, tout en appliquant la méthode de base prévue par le régime d'évaluation foncière en vigueur. Les administrations locales dans chaque province estiment les biens fonciers à leur valeur « actuelle », « réelle », « juste » ou « marchande ». Tous ces qualificatifs concourent à traduire la même signification : le prix auquel le bien immobilier devrait pouvoir être vendu sur le marché libre, par un vendeur consentant à un acheteur consentant, si la transaction prenait place à la date de l'évaluation. La méthode d'établissement de la valeur marchande est toutefois difficile à appliquer dans le cas de biens immeubles inhabituels, comme sont les grandes usines ou les services publics. Pour ces cas particuliers, il faut recourir à des méthodes d'évaluation qui ont été conçues spécialement à cet effet.

En dépit de ce point de départ uniforme, la valeur totale des biens fonciers imposables pourra fluctuer dans diverses zones d'évaluation foncière, selon les types particuliers de biens fonciers admissibles à l'exemption de taxation, en vertu de chaque régime d'imposition foncière. Certains biens sont exempts de taxation quel que soit, ou presque, le type de régime d'imposition foncière en vigueur. Entrent dans cette catégorie tous les biens possédés et occupés par les gouvernements fédéral, provinciaux et municipaux, par les écoles, les collèges et les universités, par les églises et les cimetières, par les hôpitaux publics, par les organismes de bienfaisance, et enfin, par les sociétés agricoles. Une façon de procéder qui resterait compatible avec cette méthode serait, par exemple, que les Premières nations et les bandes exonèrent d'impôt les biens qui appartiennent à la Première nation ou à la bande elle-même ou qui sont détenus en commun par ses membres.

Certaines différences dans l'évaluation totale des biens imposables peuvent aussi résulter des facteurs suivants : variantes dans ce qui est réputé être un « bien foncier » selon la définition qui en est donnée dans les textes réglementaires, différences dans l'intervalle de temps séparant les évaluations foncières, et enfin, différences entre les régimes d'évaluation proprement dits utilisés par les diverses administrations.

4. Variantes dans les régimes d'imposition foncière

4.1 Taxes locales d'amélioration

Les régimes d'imposition foncière en usage au Canada se distinguent aussi les uns des autres en fonction des types de taxes spéciales reliées aux biens fonciers, que les administrations locales imposent, outre les impôts fonciers en général perçus en vertu des divers régimes. Par exemple, toutes les provinces permettent aux administrations locales d'appliquer diverses formes d'évaluations spéciales. Ces évaluations donnent lieu à l'imposition de taxes couvrant les frais liés à des améliorations locales spécifiques telles que les trottoirs et l'éclairage des rues. Les coûts des améliorations spéciales sont normalement recouvrés par une répartition proportionnelle des coûts entre les diverses propriétés foncières, sur la base de l'étendue de façade de la propriété bénéficiant de l'amélioration.

4.2 Taxes d'affaires

Un autre impôt spécial local, relié aux biens fonciers, est la taxe d'affaires. Toutes les provinces ne perçoivent pas de taxes d'affaires mais, là où elles existent, ces taxes constituent la deuxième source de recettes fiscales en importance pour les administrations locales[9].

Les taxes d'affaires sont levées auprès de l'occupant du bien, plutôt qu'auprès de son propriétaire. Ce sont donc des taxes reliées à l'usage ou à l'occupation d'un bien foncier et à des fins commerciales. De plus, ces taxes sont généralement réputées être des taxes personnelles, dans le sens où chaque occupant faisant l'objet d'une évaluation aux fins de la taxe d'affaires est personnellement responsable du paiement de la taxe, laquelle ne constitue pas un impôt sur le terrain occupé ou utilisé à des fins commerciales.

La base foncière servant à l'établissement des valeurs commerciales varie de province en province, mais généralement la cotisation sur la valeur commerciale correspond à un pourcentage de la valeur estimée du bien foncier, ou encore, à un pourcentage de la valeur locative annuelle brute du bien commercial. On applique ensuite un taux de taxe d'affaires à la valeur commerciale estimée pour calculer le montant de taxe d'affaires que l'occupant doit acquitter. En Ontario, par exemple, le taux de taxe d'affaires en usage est identique au taux utilisé pour calculer l'impôt sur les biens commerciaux. Exprimée sous forme d'équation, la taxe d'affaires se calcule comme suit :

Valeur commerciale estimée x Taux de taxe d'affaires = Taxe d'affaires à payer

En vertu de l'article 83 de la *Loi sur les Indiens*, les conseils des Premières nations et des bandes ont le pouvoir d'établir des statuts administratifs portant sur l'imposition de taxes relatives à des terres de réserve ou à des intérêts afférents, notamment les droits *d'occupation*, de possession ou *d'usage* de terrains situés dans la réserve. Cet énoncé général laisse supposer que les bandes ont la possibilité d'établir des statuts administratifs portant sur l'évaluation des entreprises et sur l'imposition de taxes d'affaires.

C. Statuts administratifs en général

Un statut administratif est une loi établie à des fins locales par des représentants autorisés d'une administration locale; il a force de loi dans l'aire de compétence de cette autorité locale. Par conséquent, un statut administratif constitue une forme de législation.

Le pouvoir de promulguer des textes de loi peut être délégué par le Parlement du Canada ou bien par une législature provinciale, au moyen de la promulgation d'une loi, par laquelle l'autorité supérieure investit une autre autorité d'une partie de ses pouvoirs[10].

Dans le secteur fédéral, le Parlement a délégué aux conseils de bande une partie de ses pouvoirs législatifs qu'il détient en vertu du paragraphe 91(24) de la *Loi constitutionnelle de 1867* aux conseils de bande en promulguant les articles 81, 83 et 85.1 de la *Loi sur les Indiens*, aux termes desquels les conseils détiennent le pouvoir d'établir certains types précis de statuts administratifs. L'article 81 énumère plus d'une vingtaine de fins pour lesquelles les conseils peuvent établir des statuts administratifs et l'article 83 autorise les conseils à établir des statuts dans le but de réunir des fonds à des fins locales.

Un statut administratif établi par une Première nation ou par une bande est une loi qui s'applique dans la réserve. Le statut administratif est une loi au même titre que toute loi adoptée par le gouvernement du Canada ou par le gouvernement d'une province. Toutes les personnes visées par le statut administratif, qu'elles soient membres ou non d'une Première nation ou d'une bande, et qu'elles soient en faveur ou non des dispositions que renferme le statut, sont assujetties à ce statut administratif. Un conseil de Première nation ou de bande qui décide de se prévaloir de son pouvoir d'établir des statuts administratifs s'engage aussi à s'acquitter des responsabilités qui accompagnent l'exercice de ce pouvoir. Par conséquent, un conseil esttenu de faire connaître le contenu du statut administratif dont il propose l'adoption, de rédiger son projet de statut, de le faire adopter, d'y apporter les modifications nécessaires, de voir à en faire appliquer les dispositions et, en cas de contestation, d'en défendre le bien-fondé devant les tribunaux.

D. Statuts administratifs portant sur l'imposition de taxes

En conséquence de l'adoption du projet de loi C-115, les conseils ont maintenant la possibilité d'exercer le pouvoir réglementaire prévu à l'article 83 dans le but d'instaurer de véritables régimes d'imposition foncière dans les réserves. Bien que les régimes établis par les bandes puissent différer, leurs objectifs seront sans doute très semblables. En voici quelques-uns :

(a) Fournir un cadre législatif pour l'imposition foncière et pour l'aménagement des terres, afin que les Premières nations et les bandes puissent atteindre leur objectif général d'autonomie locale et d'indépendance économique et gouvernementale.

(b) Promouvoir l'aménagement des terres de réserve en fournissant aux occupants de terres indiennes un régime légalement reconnu de contribution aux coûts des services locaux; garantir que ce régime soit équitable, d'un coût raisonnable, cohérent dans son application, et qu'il pourra être contesté ou justifié auprès d'une autorité impartiale.

(c) Fournir aux Premières nations et aux bandes un moyen efficace d'édifier des sources de revenus nouvelles, souples et stables pour financer les coûts généraux liés à la viabilité, à l'aménagement et à la gestion des terres de réserve.

(d)) Faciliter la planification conjointe et l'établissement d'accords de partage des coûts entre les Premières nations ou les bandes et les administrations locales voisines (tant municipales que provinciales ou territoriales).

Pour que les objectifs reliés à l'imposition de taxes puissent être atteints, il est essentiel que les statuts administratifs en cette matière soient bien conçus et correctement formulés.

Tous les aspects d'un régime d'imposition foncière devront être intégrés dans ces statuts administratifs fiscaux, ce qui inclut les éléments fondamentaux de tout régime d'imposition foncière, à savoir, l'évaluation foncière, la procédure de contestation, les dispositions relatives à la perception, ainsi que des mesures d'exécution forcée visant le recouvrement. Si les conseils décident de régler ces questions dans le cadre d'ententes de coopération avec d'autres administrations, les statuts administratifs qu'ils adopteront devront faire état des dispositions que renferment ces ententes.

Les conseils qui ont adopté des statuts administratifs portant sur l'imposition avant 1988 se sont largement inspirés du contenu des lois provinciales en vigueur. Ces dernières demeurent d'ailleurs un bon point de départ pour les Premières nations et les bandes qui ont la tâche d'instituer leur propre régime d'imposition foncière. Cependant, la position législative des conseils, en vertu de la *Loi sur les Indiens*, diffère considérablement du modèle provincial et municipal. Outre cette réserve, précisons que la Commission consultative de la fiscalité indienne mettra à la disposition des conseils indiens un guide d'élaboration des statuts administratifs.

Naturellement, quels que soient les prototypes de régimes examinés, ces derniers devront être adaptés aux circonstances et aux besoins particuliers de chaque conseil. Par exemple, les diverses catégories de biens fonciers qui seront exonérés par décision du conseil et, par conséquent, exclus de l'assiette d'imposition, pourront avoir une incidence non négligeable sur les recettes totales que le conseil pourrait tirer de la taxation des biens fonciers.

L'établissement de statuts administratifs est une tâche qu'on ne saurait prendre à la légère, puisque la qualité des statuts administratifs en matière d'imposition aura en fin de compte une incidence directe sur le fonctionnement du régime d'imposition foncière de la bande. La Commission consultative de la fiscalité indienne a reçu le mandat de prêter son assistance aux conseils dans l'établissement de statuts administratifs portant sur l'imposition de taxes qui soient à la fois complets et appropriés (voir Partie Deux). À cet égard, les observations qui suivent pourront être d'une certain utilité.

1. Rédaction : tenir compte des limites et des obligations

Comme le pouvoir d'établir des statuts administratifs concernant les fonds est délégué aux conseils en vertu de l'article 83 de la *Loi sur les Indiens*, les conseils doivent s'en tenir aux dispositions de la *Loi*, explicites ou implicites, dans l'exercice de leur pouvoir réglementaire. À défaut de le faire, les conseils outrepasseraient leurs pouvoirs, c'est-à-dire qu'ils s'arrogeraient des pouvoirs législatifs plus étendus que ceux que prévoit la *Loi*. Ce serait le cas, par exemple, d'un conseil qui établirait un statut administratif qui taxerait des terres cédées à titre absolu; le statut se révélerait *ultra vires*.

Dans la rédaction de leurs statuts administratifs, les conseils doivent respecter toutes les exigences particulières que renferme la *Loi sur les Indiens*. À titre d'exemple, le paragraphe (3) de l'article 83 de la *Loi* stipule expressément qu'un statut administratif relatif à l'imposition doit prévoir la procédure de contestation de l'évaluation en matière de taxation. Le paragraphe (1) du même article porte que tout statut administratif relatif à l'imposition doit d'abord être approuvé par le Ministre avant d'entrer en vigueur. En l'absence de dispositions de contestation raisonnables dans un statut administratif, le Ministre ne pourrait pas approuver ce statut.

Les mécanismes d'évaluation foncière sont un exemple de dispositions dites « implicites », c'est-à-dire qu'elles ne sont pas énoncées en toutes lettres dans la *Loi*. Les dispositions implicites d'un statut administratif sont tout aussi importantes et indispensables que les dispositions explicites. L'évaluation foncière étant l'élément central de tout régime d'imposition foncière, il est bien certain qu'un statut administratif relatif à l'imposition foncière, qui ne renfermerait aucune disposition précise et détaillée en matière d'évaluation foncière, serait inapplicable.

Outre qu'il doit être conforme aux dispositions explicites et implicites de la *Loi sur les Indiens*, un statut administratif concernant la taxation doit être établi dans un esprit de bonne foi, pour le bien général du public concerné. Il ne doit pas être fait dans le but de brimer d'une manière ou d'une autre une classe d'individus en particulier, ni dans le but d'en tirer un gain personnel.

Le sens d'un statut administratif doit être clair et exempt d'ambiguités. Les tribunaux se refuseront généralement à appliquer un statut administratif qui renfermerait des dispositions ambiguës. Un statut jugé inapplicable ou non valide devant les tribunaux n'aura aucune valeur juridique. Les tribunaux ont le pouvoir de se prononcer sur le caractère légal d'un statut administratif, si ce dernier est contesté. Le fait que le Ministre a approuvé le statut administratif ne garantit nullement que les tribunaux jugeront le statut administratif exécutoire sur le plan juridique.

En cas de contestation d'une disposition d'un statut administratif devant les tribunaux pour non-respect des réserves explicites ou implicites de la *Loi sur les Indiens*, les tribunaux pourront s'inspirer de causes de même nature pour déterminer s'il faut annuler le statut administratif contesté en entier ou seulement la disposition qui est à l'origine du litige.

La jurisprudence montre que dans les cas de contestations de règlements municipaux, les tribunaux n'invalident généralement que les dispositions du statut municipal contesté qui ne reposent pas sur un pouvoir (implicite ou explicite) clairement défini dans la loi provinciale habilitante. On constate aussi que si les dispositions jugées non valides par les tribunaux sont à ce point essentielles au statut administratif qu'elles ne sauraient être dissociées des dispositions valides restantes du statut administratif, il se peut alors que le tribunal déclare tout le statut administratif non valide.

En résumé, à moins que chaque partie importante d'un statut portant sur l'imposition soit clairement autorisée par la *Loi sur les Indiens*, le conseil de bande qui a rédigé ledit statut court le risque de voir le statut intégralement annulé.

Le paragraphe 83(5) de la *Loi sur les Indiens* stipule que le gouverneur en conseil peut, « par règlement . . . régir l'exercice du pouvoir réglementaire de la bande ». Si et lorsque de tels règlements existent, il faut en tenir compte dans la rédaction d'un statut administratif concernant l'imposition. En vertu du paragraphe 83(6) de la *Loi sur les Indiens*, un statut administratif sur la taxation ne demeure en vigueur que dans la mesure de sa compatibilité avec les règlements pris en application du paragraphe 83(5).

La *Loi sur les Indiens* n'attribue à personne en particulier la responsabilité d'établir des statuts administratifs. Le conseil décide lui-même à qui il va en confier la rédaction. En dernier ressort, le conseil lui-même est responsable du contenu puisque, s'il devait y avoir contestation de la validité du statut ou de son interprétation, c'est le conseil qui aurait à en défendre la validité en cour.

Comme les statuts administratifs sur la taxation sont des textes réglementaires importants et qu'il est essentiel que ces textes soient de bonne qualité, les conseils auront intérêt à prendre les services d'un juriste expérimenté pour la formulation et la rédaction de ces statuts. Des statuts administratifs sur l'imposition de taxes, rédigés par des profanes n'ayant pas de connaissances spécialisées en droit foncier et en interprétation de textes juridiques, seraient difficiles à défendre devant les tribunaux si leur validité ou leur interprétation était contestée.

La probabilité de devoir faire face à de telles contestations est très grande. Comme les gens n'aiment guère payer des taxes, presque inévitablement d'aucuns tenteront de contester les nouvelles réglementations en matière d'imposition dans l'espoir, soit de n'avoir rien du tout à payer en impôts fonciers, soit, tout au moins, de faire réduire le quantum (montant) de leur évaluation foncière. Si des contribuables contestent le montant des impôts fonciers qu'on leur réclame, cela signifie que les mécanismes et méthodes d'évaluation prévus dans le statut administratif seront scrutés à la loupe par des commissions d'examen des évaluations et par les tribunaux.

2. Adoption et modification des statuts administratifs portant sur l'imposition de taxes

La Commission consultative de la fiscalité indienne fournira aux conseils de l'aide dans le but d'améliorer la qualité de leurs statuts administratifs sur l'imposition de taxes. Compte tenu que la Commission est considérablement versée dans le sujet, les conseils jugeront sans doute opportun de discuter des projets de statuts avec la Commission ou le Secrétariat, avant d'adopter officiellement les statuts.

Un statut administratif ne peut être adopté qu'« en vertu du consentement donné par une majorité des conseillers de la bande présents à une réunion du conseil dûment convoquée »[11]. Si la Commission consultative de la fiscalité indienne propose que soient apportés des ajouts ou des modifications au projet de statut, avant son adoption, il sera alors facile d'incorporer les changements. Par contre, une fois qu'un statut administratif est adopté par le conseil, il ne peut être modifié que par l'adoption d'un nouveau statut administratif, ayant pour effet d'abroger ou de modifier des dispositions de l'ancien statut.

Au terme des consultations avec la Commission à propos du projet de statut, un conseil pourra ensuite établir sa version du statut qui sera mis aux voix et, si le vote est favorable à l'adoption du statut, ce dernier sera présenté au Ministre pour examen.

La *Loi sur les Indiens* et ses règlements d'application ne renferment aucune disposition particulière relative aux procédures d'adoption ou de modification de statuts administratifs en matière de taxation. Cependant, eu égard à l'importance que revêtent ces statuts, les conseils seraient bien avisés d'établir une procédure d'adoption de leurs statuts administratifs sur la taxation, comparable à celle qui est utilisée dans la plupart des législatures, c'est-à-dire qu'un statut aurait à franchir les trois étapes de « lecture » avant qu'il ne soit finalement adopté. Autrement dit, le conseil examine le projet de statut administratif trois fois. Au cours du processus, le conseil étudie le projet, article par article. Dans bien des cas, un avis public officiel exposant le projet du statut (par voie d'annonces dans les journaux, par exemple) pourrait être obligatoire et le public serait invité à donner son opinion sur le statut à l'occasion de séances extraordinaires du conseil. Grâce à ce genre de procédure, tous les membres du conseil auraient la chance de se familiariser avec le statut administratif proposé, et le public aurait l'occasion de faire connaître son opinion, avant l'adoption.

Une fois adopté, un statut administratif ne devient pas pour autant immuable. Il peut être modifié (révisé) ou abrogé (révoqué). Pour modifier ou abroger un statut administratif, un nouveau projet de statut doit être rédigé, indiquant qu'il a pour objet de modifier ou d'abroger un statut administratif existant ou partie de celui-ci. Un projet de statut administratif destiné à modifier ou à abroger un autre statut est rédigé et acheminé de la même manière que tout projet de statut administratif. Un statut administratif ne peut être modifié que par l'adoption d'un autre statut; il n'est pas possible de le modifier par simple « résolution du conseil de bande ».

Les projets de modification de statut administratif peuvent émaner de l'intérieur du conseil, si ce dernier décide que le statut visé doit faire l'objet d'une mise à jour, de façon à l'adapter à un contexte qui a changé, à certaines circonstances ou à un courant d'opinion différent. Par exemple, un conseil dont le statut administratif sur l'imposition de taxes ne prévoyait pas initialement la levée d'une taxe d'affaires pourra décider ultérieurement de modifier son statut administratif de façon à y inclure des dispositions à cet effet.

Les projets de modification de statuts administratifs peuvent aussi résulter de pressions exercées par le public. Des membres de Premières nations ou de bandes, ou des occupants de la réserve pourront, par exemple, faire pression sur le conseil pour que ce dernier apporte des modifications qu'ils estiment nécessaires à un statut administratif.

Que se fasse manifestement sentir ou non le besoin d'apporter des modifications précises, il sera bon que le conseil procède périodiquement à une révision de l'ensemble de ses statuts administratifs portant sur la taxation. Cet examen d'ensemble permettra de déterminer si un statut administratif remplit son objectif, s'il est aussi efficace qu'on le souhaite et s'il contient des lacunes ou des échappatoires auxquelles il y aurait lieu de remédier.

E. Contestations des évaluations foncières

Le paragraphe 83(3) de la *Loi sur les Indiens* établit que les statuts administratifs portant sur l'imposition de taxes doivent « prévoir la procédure de contestation de l'évaluation en matière de taxation ». L'existence d'un droit d'appel statutaire est essentielle dans tout processus d'évaluation foncière, pour deux raisons. Premièrement, la nature du processus d'évaluation foncière est telle que la décision en matière d'évaluation est fondée uniquement sur le jugement rendu par l'évaluateur, sans que la partie évaluée ait eu l'occasion de donner son avis au préalable. Deuxièmement, il est une règle fondamentale en common law ayant trait aux procédures administratives telles que l'évaluation foncière, à savoir que toute personne a le droit d'être entendue lorsque des questions portant atteinte à sa liberté ou à son droit à la propriété sont en litige. Cette règle découle des principes de justice naturelle, reconnus comme fondamentaux en droit administratif, ces principes ayant essentiellement pour objet d'assurer, premièrement, le droit d'une personne d'être entendue, deuxièment, de l'être devant un tribunal impartial.

Pour être conformes à la règle du droit à audition, tout en permettant aux évaluateurs de prendre des décisions préliminaires sans audition, les procédures d'évaluation foncière aux fins de la taxation prévoient toujours des mécanismes d'appel par lesquels un contribuable peut contester son évaluation. Ces droits d'appel sont, en réalité, des droits à une audition subséquente (*a posteriori*)[12]. Si aucun droit n'était accordé d'en appeler de l'application du statut administratif habilitant, selon les règles de la common law, les tribunaux pourraient alors juger que le processus d'évaluation s'accomplit à l'encontre des principes de la justice naturelle et, de façon plus particulière, que le statut administratif en question contrevient à la règle selon laquelle une personne doit avoir la chance de se faire entendre.

Dans le cas de la taxation de non-Indiens occupant des terres indiennes, il existe une autre raison contraignante d'inclure un droit statutaire d'en appeler d'évaluations foncières établies en vertu de la *Loi sur les Indiens*. Les locataires à bail non indiens de terres indiennes ne peuvent pas voter aux élections des Premières nations ou des bandes et, par conséquent, ils devront s'en remettre plus que jamais au processus judiciaire pour se pourvoir en appel plutôt que de recourir aux voies politiques que l'on emprunte normalement pour faire connaître son insatisfaction.

La *Loi sur les Indiens* ne décrit pas en détail les types de processus d'appel que les conseils devraient prévoir dans leurs statuts administratifs sur l'imposition de taxes. Cependant, quels que soient les mécanismes qui seront instaurés, ces derniers devront être conformes aux principes de la justice naturelle, puisque, comme nous l'avons dit plus tôt, l'appel constitue en réalité une audition subséquente (ou *a posteriori*).

Comme la justice naturelle fait valoir le droit du particulier à être entendu devant un tribunal impartial, le plaignant (généralement la partie dont les biens font l'objet de l'évaluation) doit se voir accorder la possibilité de faire connaître sa plainte. En d'autres mots, il doit avoir la chance de donner les raisons pour lesquelles il conteste l'évaluation de ses biens. Le plaignant doit, d'autre part, pouvoir faire valoir son droit à soumettre sa requête à un tribunal impartial. Une autorité en matière de droit administratif a écrit ce qui suit à propos de la question du parti pris[13] : « En droit commun . . . est jugé inhabile à remplir sa fonction judiciaire le juge, le magistrat ou l'arbitre indépendant se trouvant dans une situation où il y a probabilité réelle de partialité, c'est-à-dire, lorsqu'il y a lieu de croire que l'instance de décision pourrait, consciemment ou inconsciemment, faire preuve de partialité envers le plaignant. Les membres de tribunaux qui instruisent les appels en matière d'évaluation foncière . . . entrent dans la même catégorie [que les juges, magistrats et arbitres]. »

Pour être réputés impartiaux, les membres d'une instance d'appel en matière d'évaluation foncière doivent ne tirer aucun avantage matériel du résultat de l'évaluation et doivent ne manifester, aussi bien en réalité qu'en apparence, aucune idée préconçue quant à l'issue de la cause et ils ne doivent avoir pris part à aucune étape préliminaire de l'évaluation.

Dans les administrations municipales et provinciales, deux voies d'appel ont été établies pour traiter les plaintes concernant les évaluations foncières. La première est administrative, la seconde judiciaire. Dans le premier cas, le plaignant peut soumettre sa requête à une commission spéciale, à un conseil ou à un tribunal responsable de l'instruction des réclamations concernant les évaluations. Dans le second cas, le requérant peut recourir au système judiciaire pour faire valoir ses droits.

Généralement, on préférera saisir une commission spéciale de sa requête, plutôt que de se faire entendre devant un tribunal judiciaire pour les raisons suivantes[14] :

> *. . . parce que les membres [d'une commission] seront spécialisés (sinon, sur le point de l'être) dans les questions en litige, parce que ses rouages et ses mécanismes sont beaucoup plus informels, parce que la commission pourra plus facilement rechercher les faits, appliquer des normes souples et exercer ses pouvoirs discrétionnaires, et aussi parce que ce recours peut coûter moins cher, être plus accessible et expéditif que ne le serait le recours à un tribunal de haute instance.*

En dépit des avantages de l'audition par une commission, il n'en reste pas moins que certaines questions juridiques complexes doivent être réglées devant les tribunaux. C'est ce qui explique pourquoi certaines administrations en sont venues à créer des mécanismes d'appel à plusieurs paliers, parmi lesquels il y a des instances administratives et des instances judiciaires, pour régler les réclamations concernant l'évaluation foncière.

Les régimes d'appel varient de province en province, selon le type de loi habilitante en vigueur. Il suffira de consulter les statuts administratifs en matière d'évaluation foncière de chaque province pour trouver des exemples de mécanismes d'appel existants.

Pour prendre un exemple concret, en vertu de la *Loi sur l'évaluation foncière de l'Ontario*, le régime d'appel décrit ci-après a été instauré. D'abord, au stade préliminaire de l'appel, qui sera entendu pendant une instance administrative, toute personne peut porter plainte par écrit devant la Commission de révision de l'évaluation foncière. Le particulier qui s'estime lésé peut porter plainte, premièrement, au sujet d'une évaluation qu'il ou qu'une autre personne juge trop ou pas assez élevée; deuxièmement, parce que son nom n'a pas été placé au bon endroit ou omis dans le rôle d'évaluation, en tant que contribuable à une école publique ou séparée[15]. Le niveau administratif d'appel suivant est la Commission des affaires municipales de l'Ontario, auprès de laquelle on peut en appeler d'une décision rendue au premier palier par la Commission de révision de l'évaluation foncière. Les appels devant la Commission des affaires municipales de l'Ontario sont instruits comme s'il s'agissait d'un nouveau procès[16]. (Il faut bien prendre note que la Commission consultative de la fiscalité indienne *n'a pas* statut d'organisme d'appel ni de commission des affaires municipales.)

On peut en appeler d'une décision soulevant une question de droit (par opposition à une question de fait) rendue par la Commission des affaires municipales de l'Ontario auprès de la Cour divisionnaire, avec la permission de cette dernière[17]. Par ce mécanisme d'appel, l'appelant passe aux paliers d'appels judiciaires.

Une personne peut aussi passer directement au palier d'appel judiciaire et éviter les instances administratives, en demandant directement à la Cour suprême de l'Ontario ou à une cour de comté de statuer sur son évaluation foncière. Précisons cependant que les requêtes portant sur des questions d'omission ou de position au rôle, ou encore sur des questions de surévaluation ou de sous-évaluation, qui sont principalement du ressort de la Commission de révision de l'évaluation foncière, ne seront pas accueillies si elles sont présentées directement au tribunal; le tribunal ne s'en saisira qu'à l'épuisement des recours devant les paliers administratifs d'appel[18].

L'exemple qui précède fait clairement ressortir les rapports qui existent entre les paliers d'appel administratif et judiciaire. Les conseils qui se donnent pour tâche d'établir une procédure d'appel des évaluations foncières effectuées sous leur gouverne doivent s'attendre à ce que l'institution de plusieurs paliers administratifs d'appel soit nécessaire, et doivent déterminer si certaines instances existantes (comme les commissions provinciales ou municipales de révision de l'évaluation foncière) pourront jouer ce rôle d'instance d'appel, à un niveau ou à un autre, afin d'éviter d'avoir à assumer les coûts élevés qu'entraînerait la création de toutes pièces d'un système d'appel à plusieurs niveaux, et enfin, doivent décider de quelle façon le système judiciaire fédéral prendra le relais de leur système administratif d'appel, de façon à prévoir une voie d'appel judiciaire.

Partie deux

A. Introduction

En janvier 1989, le ministre des Affaires indiennes et du Nord canadien créait la Commission consultative de la fiscalité indienne, chargée d'examiner tous les statuts administratifs portant sur l'imposition et de faire des recommandations quant à leur approbation.

Cette Commission se compose de 10 membres, dont la majorité sont des Indiens qui ont tous des connaissances et de l'expérience dans des domaines comme l'administration indienne, les relations intergouvernementales, l'imposition foncière, l'aménagement des terres de réserve, la prestation de services gouvernementaux et d'autres activités connexes. La Commission représente un éventail de perspectives différentes, en reconnaissance de la grande variété de répercussions que l'établissement d'un nouveau régime de fiscalité indienne est susceptible d'avoir. La Commission n'a pas été créée en vertu du projet de loi C-115, ni en vertu de quelque autre loi du Parlement. Elle est plutôt un corps administratif dont les membres sont nommés par le ministre des Affaires indiennes pour aider ce dernier à s'acquitter de ses responsabilités découlant de l'article 83 de la *Loi sur les Indiens*.

La préoccupation principale de la Commission est de faciliter l'établissement, pour les bandes, de régimes d'imposition foncière de haute qualité. Elle tiendra des fonctions d'examen et de consultation au sujet des statuts administratifs sur l'imposition, en tenant compte du contexte général dans lequel ils sont établis, y compris leur incidence sur les autres compétences fiscales et sur les intérêts des contribuables. Comme l'imposition foncière par les Premières nations et les bandes est une entreprise nouvelle et complexe, la Commission fournira aussi à ces dernières des conseils et des lignes directrices.

B. Activités de la commission consultative de la fiscalité indienne

Le Ministre des Affaires indiennes et du Nord canadien a déterminé le mandat et les activités de la Commission consultative de la fiscalité indienne, tels qu'ils sont exposés ci-dessous.

Les activités de la Commission consultative de la fiscalité indienne seront menées avec le soutien ou par l'intermédiaire du Secrétariat de la fiscalité indienne.

1. Politique

Énoncé du mandat

Conseiller le Ministre sur les questions de politique reliées aux pouvoirs d'imposition qu'exercent les Premières nations et les bandes indiennes en vertu de l'article 83 de la *Loi sur les Indiens*, notamment sur le rapport entre les taux d'imposition et les recettes produites d'une part, et les dépenses d'autre part, de même que sur toute autre question connexe que lui soumet le Ministre.

Activités

1.1 La Commission doit élaborer des lignes directrices qui régiront la préparation de ses propres recommandations au Ministre.

1.2 La Commission doit faire des recommandations concernant les règlements ou les modifications de règlements qui doivent être approuvés, en dernier ressort, par le gouverneur en conseil.

1.3 Dans l'élaboration de politiques particulières, la Commission doit consulter les bandes et les organismes indiens, ainsi que les autorités provinciales et municipales ou toute autre partie intéressée, afin d'obtenir leur point de vue.

1.4 La Commission doit faire des recommandations au Ministre en matière de politiques. (*Nota :* les règles d'application des statuts administratifs doivent être aussi simples et rationnelles que possible.)

2. Rapports avec les premières nations et les bandes

Énoncé du mandat

Tenir les Premières nations et les bandes au courant des activités, des politiques et des décisions de la Commission; au reçu d'un projet de statut administratif, consulter la Première nation ou la bande concernée en ce qui regarde des améliorations susceptibles d'être apportées au statut, et fournir à cet égard un apport et des conseils techniques; enfin, permettre aux Premières nations et aux bandes de participer pleinement au processus d'analyse et d'approbation de leurs statuts administratifs.

Activités

2.1 La Commission doit fournir de l'information et des conseils sur des modèles de statuts administratifs, sur des questions techniques, sur des ententes entre différentes compétences, sur les procédures de contestation, etc., et elle se tiendra, d'une façon générale, à la disposition des Premières nations et des bandes qui souhaitent obtenir des conseils sur l'élaboration de statuts administratifs en matière d'imposition.

2.2 La Commission doit procurer aux Premières nations et aux bandes les directives, politiques, règlements ou décisions se rapportant aux statuts administratifs en matière d'imposition.

2.3 Les membres des conseils de Premières nations et de bandes auront la possibilité de rencontrer les membres de la Commission afin de discuter de leurs statuts administratifs au cours de l'élaboration de ces derniers; enfin, dans la mesure du possible, la Commission demandera l'avis des Premières nations et des bandes au sujet des buts et objectifs visés par l'établissement de statuts administratifs particuliers et au sujet des options en la matière.

2.4 La Commission peut promouvoir les consultations entre les Premières nations et les bandes et d'autres administrations ou parties concernées par des projets de statuts administratifs, et prêter son concours dans ce contexte.

3. Rapports avec le ministre

Énoncé du mandat

Faire des recommandations au Ministre à propos des différents statuts administratifs; à cette fin, examiner tous les projets de statuts dans l'intention que soient observés les principes suivants : équité, justice naturelle, complétude et conformité à la loi habilitante, en vue d'évaluer, à l'intention du Ministre, les incidences locales que pourront avoir les statuts.

Activités

3.1 Chaque statut administratif soumis à l'approbation du Ministre par une Première nation ou par une bande sera transmis à la Commission, accompagné d'un rapport d'analyse et d'une recommandation préparés par le Secrétariat, ainsi que d'un résumé des recommandations provenant du ministère de la Justice, au besoin.

3.2 Conformément au mandat énoncé en 3.0, la Commission doit faire ses recommandations au Ministre au sujet de l'approbation du statut administratif, y compris ses commentaires, s'il y a lieu, portant sur la recommandation faite par le Secrétariat.

3.3 Dans le cas de recommandations de la Commission auxquelles le Ministre estime ne pas devoir donner son aval, le Ministre doit inviter la Commission à réviser la situation avant de rendre sa décision définitive.

3.4 La Commission doit procéder, pour le compte du Ministre, à la revue annuelle des statuts administratifs sur l'imposition qui sont établis par les Premières nations et les bandes, que ces statuts soient en vigueur ou à l'étude.

3.5 Le directeur doit rendre compte régulièrement à la Commission de la situation en ce qui concerne les statuts administratifs que la Commission soumet au Ministre.

4. Rapports avec d'autres administrations

Énoncé du mandat

Favoriser la mise sur pied de mécanismes destinés à nouer des relations de coopération, en ce qui a trait aux régimes d'imposition foncière, entre, d'une part, les Premières nations et les bandes, et d'autre part, les administrations provinciales, municipales ou régionales, et participer au fonctionnement de ces mécanismes.

Activités

4.1 La Commission doit favoriser la formation de comités mixtes au sein desquels d'autres administrations et d'autres organes de fonctionnement appropriés seront représentés, et elle doit elle-même participer à ces comités, avec l'objectif d'aider à établir des méthodes utilisant une approche coopérative avec d'autres régimes fiscaux et financiers.

4.2 La Commission doit agir, au besoin, en qualité de médiateur entre des conseils de Première nation ou de bande individuels et d'autres compétences administratives, en ce qui concerne des problèmes touchant les statuts administratifs en matière d'imposition.

4.3 La Commission peut patronner et coordonner des études, des examens, ainsi que des colloques ou des conférences, en collaboration avec d'autres compétences administratives, sur des questions générales reliées à la taxation chez les Premières nations et les bandes.

5. Rapports avec les contribuables

Énoncé du mandat

Entendre les inquiétudes des contribuables au sujet d'un statut administratif en particulier, et recommander à la Première nation ou à la bande intéressée d'y apporter, s'il y a lieu, des modifications, en restant dans les limites et la portée de l'article 83 de la *Loi sur les Indiens*; conseiller les Premières nations et les bandes, et le Ministre, au sujet du traitement des contestations portant sur l'évaluation foncière, de façon à garantir la compétence et l'impartialité dans les appels ainsi qu'un traitement équitable, conformément au statut administratif pertinent.

Activités

5.1 La Commission doit fournir des lignes directrices et donner des conseils aux Premières nations et aux bandes en ce qui concerne les mécanismes propres à assurer l'examen éclairé et impartial des contestations portant sur l'évaluation foncière.

5.2 La Commission ou un comité de la Commission peut se réunir avec des organisations de contribuables ou avec des contribuables non représentés pour entendre leurs inquiétudes au sujet de certains statuts administratifs relatifs à l'imposition. La Commission doit avertir à l'avance la Première nation ou la bande concernée de la tenue d'une telle audience. La Commission peut faire des recommandations à une Première nation ou à une bande au sujet de modifications à apporter à son statut administratif, tout en veillant à assurer le respect des dispositions de l'article 83 de la *Loi*.

5.3 La Commission doit diffuser de l'information et s'efforcer de sensibiliser le public à la nature, à l'objet et à l'administration des statuts administratifs portant sur la fiscalité indienne.

6. Examen et analyse

Énoncé du mandat
Présenter annuellement un rapport au Ministre.

Activités

6.1 La Commission doit examiner chaque année l'état de la situation en ce qui concerne l'imposition chez les Premières nations et les bandes, l'efficacité et la mise en oeuvre des politiques, ainsi que l'administration générale, conformément aux dispositions de l'article 83 de la *Loi sur les Indiens*, et faire un rapport, par écrit, au Ministre.

6.2 La Commission doit patronner la réalisation d'études et d'analyses reliées à la taxation chez les Premières nations et les bandes.

6.3 La Commission doit procéder à un examen de la gestion de ses propres activités et de celles du Secrétariat.

C. Le secrétariat de la fiscalité indienne

Le Secrétariat a été constitué pour répondre aux besoins de la Commission en matière de conseils d'ordre technique et touchant les politiques, et également pour lui fournir le soutien logistique. Le Secrétariat est aussi le centre d'administration des statuts administratifs relatifs à la fiscalité indienne, au sein du Ministère.

Dans le cadre de ses activités, la Commission élabore des recommandations à l'intention du Ministre, produit des énoncés de politique, des publications, des analyses techniques, donne des avis en ce qui concerne les rapports annuels des Premières nations et des bandes, tient des réunions, des audiences, s'occupe de relations intergouvernementales et encore d'autres tâches. Pour toutes ces activités, la Commission reçoit le soutien du Secrétariat.

De plus, le Secrétariat aide la Commission à s'acquitter de ses fonctions de consultation et d'analyse. Le Secrétariat examine en détail les statuts administratifs et fait des recommandations à la Commission à cet égard. Sous la direction de la Commission, le Secrétariat est à la disposition des conseils pour aider ces derniers à élaborer des statuts administratifs qui soient judicieux et appropriés, et qui aient ainsi de très bonnes chances d'être approuvés par le Ministre.

D. Processus d'approbation des statuts administratifs

La question que tout conseil ne manquera pas de poser est de savoir combien de temps il faudra pour que son statut administratif soit approuvé. Pour répondre à cette question, la Commission a établi un calendrier dont les conseils pourront s'inspirer pour planifier et programmer la préparation de leurs statuts administratifs et leur processus décisionnel en la matière. Ce calendrier est dressé en fonction des réunions de la Commission, qui ont lieu en **mars**, en **juin**, en **septembre** et en **décembre**.

Pour les projets de statuts administratifs qui sont transmis à la Commission :
en **novembre**, en **décembre** ou en **janvier**, la recommandation de la Commission sera connue en **juin**;
en **février**, en **mars** ou en **avril**, la recommandation de la Commission sera connue en **septembre**;
en **mai**, en **juin** ou en **juillet**, la recommandation de la Commission sera connue en **décembre**;
en **août**, en **septembre** ou en **octobre**, la recommandation de la Commission sera connue en **mars**.

De façon générale, la communication entre les conseils et la Commission avant l'étape de l'adoption proprement dite des statuts administratifs relatifs à l'imposition devrait faciliter beaucoup le travail d'élaboration et l'approbation des statuts administratifs.

Les conseils peuvent à loisir correspondre avec la Commission à propos de leurs statuts administratifs tandis que ces derniers sont en cours d'élaboration. Il n'est d'ailleurs pas nécessaire d'avoir un statut concrètement adopté avant de pouvoir consulter la Commission. Tout conseil qui désire adopter un statut administratif est invité à écrire à la Commission ou à communiquer avec le bureau régional du Ministère pour lui faire part de ses intentions. La Commission peut alors être en mesure de donner au Conseil de l'information pertinente pour lui permettre de faire démarrer le projet. L'adresse de la Commission figure sur la couverture de la présente publication.

Au cours de la phase d'élaboration de ses statuts administratifs, le conseil aura peut-être besoin d'éclaircissements sur certains éléments particuliers de son statut, comme la procédure de contestation. La Commission sera à sa disposition pour lui fournir des explications et lui faire des suggestions. Les conseils recevront des exemplaires des lignes directrices, politiques, règlements ou décisions portant sur les statuts administratifs relatifs à l'imposition, aussitôt que ces documents seront prêts. À cet égard, un ouvrage très important qui est en cours de préparation par la Commission, constituera un guide général d'élaboration des statuts administratifs.

La Commission peut aussi prendre part aux consultations mettant en présence des conseils et d'autres gouvernements ou parties visés par un projet de statut administratif. Un conseil pourra souhaiter, par exemple, de conclure une entente avec une municipalité voisine, entente qui peut l'obliger à rajuster une assiette d'impôt. La Commission pourrait alors fournir de l'information et donner des conseils de façon à aider toutes les parties à trouver une solution satisfaisante. Les conseils qui désirent obtenir ce genre de services peuvent communiquer avec la Commission.

Annexe

Critères établis par le Comité mixte permanent pour l'examen de la réglementation

Un comité Parlementaire, le « Comité mixte permanent pour l'examen de la réglementation », a établi des critères régissant les règlements administratifs et les autres textes statutaires. Les statuts administratifs des conseils de bande sont des textes statutaires fédéraux. Cependant, ils ne sont pas assujettis au processus d'examen en vertu de la *Loi sur les textes réglementaires*, de par un règlement d'application établi en vertu de cette même *Loi*. Néanmoins, les critères définis par le Comité mixte permanent demeurent un guide utile à suivre pour l'élaboration et la validité de statuts administratifs. Ces critères sont exposés ci-dessous.

Le statut administratif ne sera pas valide si'il :

1. n'est pas autorisé par les dispositions de la loi habilitante (*Loi sur les Indiens*) et qui ne ferait pas état des dispositions précises sur lesquelles il repose;
2. n'est pas conforme à la *Charte canadienne des droits et libertés* et à la *Déclaration canadienne des droits*;
3. a un effet rétroactif en l'absence d'autorisation formelle dans la législation habilitante;
4. impose le paiement de droits ou de frais ou qui prescrit le montant de ces droits ou frais, en l'absence d'autorisation formelle dans la législation habilitante;
5. impose une amende, un emprisonnement ou autre pénalité en l'absence d'autorisation formelle dans la législation habilitante;
6. tend directement ou indirectement à exclure la juridiction des tribunaux, en l'absence d'autorisation formelle dans la législation habilitante;
7. n'est pas conforme à l'esprit de la *Loi sur les textes réglementaires*, en ce qui a trait à la notification des personnes qui seraient touchées par le statut administratif;
8. paraît enfreindre le principe de la légalité;
9. empiète indûment sur les droits et libertés de la personne;
10. assujettit indûment les droits et libertés de la personne au pouvoir discrétionnaire de l'administration ou qui n'est pas conforme aux règles de justice naturelle;
11. utilise de manière inhabituelle ou inattendue les pouvoirs que confère la législation habilitante;
12. semble représenter l'exercice d'un pouvoir législatif de fond qui devrait faire l'objet d'une loi par le Parlement;
13. requiert des éclaircissements quant à sa forme ou à son objet;
14. par lequel on chercherait à autoriser une sous-délégation de pouvoirs d'une façon non conforme à la *Loi sur les Indiens*.

Notes de références

1. W. Daugherty et D. Madill, *L'Administration indienne en vertu de la législation relative aux Indiens, 1868-1951*, Partie Deux (Ottawa : Ministère des Affaires indiennes et du Nord canadien, 1980), p. 112.
2. *Acte de l'avancement des Sauvages*, S.C. 1884, c. 28, art. 10, par. 11.
3. Provinces et municipalités ont été autorisées à évaluer et à taxer les intérêts détenus par des non-Indiens dans des terres indiennes, en dépit du fait qu'elles ne peuvent taxer les terres indiennes proprement dites, suite à la décision rendue par la Cour suprême du Canada dans l'affaire *Smith c. Rural Municipality of Vermillion Hill* (1914), 49 R.C.S. 563, confirmé (1916), [1916] 2 A.C. 569. Dans cette affaire, la Cour a statué que la municipalité rurale pouvait taxer l'occupant ou l'occupante de terres de la Couronne fédérale dans la mesure de son intérêt à titre d'occupant dans cette terre.
4. *Provincial and Municipal Finances 1987* (Toronto : Association canadienne d'études fiscales, 1988), 11:1.
5. *Ibid.*, 11:3.
6. F.H. Finnis, *Property Assessment in Canada – Canadian Tax Papers/Études fiscales canadiennes*, n° 62 (Toronto : Association canadienne d'études fiscales, 1979), p. 1.
7. *Ibid.*
8. F.A. Clayton, *Real Property Tax Assessment Practices in Canada* (Supplément 1976), 2 *Can Public Policy/Analyse de politiques*, 348 et 349. Les vues de Clayton sont exposées dans l'ouvrage de R.W. Broadway et H.M. Kitchen, *Canadian Tax Policy – Canadian Tax Papers/Études fiscales canadiennes*, n° 63 (Toronto : Association canadienne d'études fiscales, 1980), p. 168.
9. *Provincial and Municipal Finances, supra*, 11:20, note 4.
10. *Loi sur les municipalités*, L.R.O. 1980, c. 302, art. 104.
11. *Loi sur les Indiens*, al. 2(3)b).
12. J.M. Evans, éd., *De Smith's Judicial Review of Administrative Action* (London : Stevens, 1980), p. 193.
13. *Ibid.*, p. 253. [Trad.]
14. *Ibid.*, p. 20. [Trad.]
15. *Loi sur l'évaluation foncière*, L.R.O. 1980, c. 31, art. 39.
16. *Loi sur l'évaluation foncière*, L.R.O. 1980, c. 31, art. 47.
17. *Loi sur la Commission des affaires municipales de l'Ontario*, L.R.O. 80, c. 47, art. 50.
18. *Loi sur l'évaluation foncière*, L.R.O. 1980, c. 31, art. 50.
19. P.W. Hogg, *Constitutional Law of Canada* (Toronto : Carswell, 1985), p. 640. L'auteur pense que la *Déclaration canadienne des droits* a perdu presque toute son importance en 1982, lorsque la *Charte canadienne des droits et libertés* a passé en loi. Il remarque néanmoins que les dispositions de la Déclaration des droits qui n'ont pas été reprises par la Charte, c'est-à-dire qui n'apparaissent pas dans la Charte, demeurent en vigueur et ont toujours force de loi en tant que partie de la Déclaration des droits. « Ces dispositions sont au nombre de deux : 1) la disposition relative à « l'application régulière » de la Déclaration, à l'alinéa (1)a), qui étend les droits de l'individu à la protection de ses *biens*; 2) l'alinéa (2)e) de la Déclaration, qui protège le droit d'une personne à une *audition impartiale* de sa cause, pour la définition de ses droits et obligations. Ces deux dispositions vont au-delà des garanties inscrites dans la Charte et, par conséquent,continueront de limiter l'action exécutoire du gouvernement fédéral (mais non celle des provinces). » [Le soulignage a été ajouté. Il s'agit ici d'une traduction du texte anglais.]